



Routledge Studies in Social and Political Thought

HEGEL AND CONTEMPORARY PRACTICAL PHILOSOPHY

BEYOND KANTIAN CONSTRUCTIVISM

Edited by
James Gledhill and Sebastian Stein



“Beyond Kantian Constructivism is the first attempt to put recent interpretations of Hegel into dialogue with the tradition of Kantian constructivism – an astonishing gap in the literature, which has now been filled by this important and timely collection, which effectively shows how Hegel’s idealism provides the conceptual resources to respond to the conceptual dichotomies of Kantian constructivism.”

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Western Sydney University*

“Hegel and contemporary practical Philosophy is an impressive collection of contributions by the best English-speaking scholars of Hegel. It shows how Hegel’s practical philosophy clarifies the challenges at stake in contemporary discussions, for example between moral “constructivism” and “realism”, which are enlightened by the introduction of the volume.”

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“James Gledhill and Sebastian Stein have produced a book that is not only a collection of excellent essays on Hegel and practical philosophy, but an excellent collection with a unifying focus on Kantian constructivism. It contains essays by prominent and by up-and-coming Hegel scholars, all of which are informed by relevant debates in analytic philosophy. It will henceforth be indispensable reading for anyone working on Hegel’s practical philosophy.”

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Hegel and Contemporary Practical Philosophy

While Kantian constructivism has become one of the most influential and systematic schools of thought in analytic moral and political philosophy, Hegelian approaches to practical normativity hold out the promise of building upon Kantian insights into individual self-determination while avoiding their dualistic tendencies. James Gledhill and Sebastian Stein unite distinguished scholars of German idealism and contemporary Anglophone practical philosophy with rising stars in the field to explore whether Hegelian idealist philosophy can offer the categories that analytic practical philosophy requires to overcome the contradictions that have so far plagued Kantian constructivism.

The volume organizes the contributions into three parts. The first of these engages debates in metaethics regarding the relationship between realism and constructivism. The second part sees contributors draw on debates about the nature of political normativity, focusing primarily on the problems of historical contextualism, relativism, and critical reflection. The concluding part considers the application of the Hegelian framework to contemporary debates about specific ethical issues, including multiculturalism, democracy, and human rights.

Hegel and Contemporary Practical Philosophy contributes to the on-going debate about the importance of systematic philosophy in the context of practical philosophy, engages with contemporary discussions about the shape of a rational social order, and gauges the timeliness of Hegelian philosophy. This book is a must read for scholars interested in Hegel and in the contemporary tradition of Kantian constructivism in moral and political philosophy.

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Hegel and Contemporary Practical Philosophy

Beyond Kantian Constructivism

James Gledhill and Sebastian Stein

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Hegel and Contemporary Practical Philosophy

Beyond Kantian Constructivism

**Edited by
James Gledhill and Sebastian Stein**



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Introduction

James Gledhill and Sebastian Stein

In both his theoretical and practical philosophies, Hegel is concerned with overcoming dualisms while avoiding falling back into rationalist monism (Winfield 1988; Neuhouser 2000; Houlgate 2006; Moyar 2011, Bowman 2013; Kreines 2015; Knappik 2016). This is one of the great promises of Hegelian thought: to move beyond the alleged contradictions of Kantian philosophy without sacrificing individual freedom in the process. For critics, however, Hegel's project is a dogmatic return to pre-critical, epistemologically naïve metaphysics at best and an invitation to evasiveness and obscurity at worst (see, e.g., Popper 1945; Russell 1945). And yet the recent revival of Hegelian thought in the analytic tradition of philosophy proves that Hegel cannot be so easily written off. Indeed, a survey of recent work in Anglo-American practical philosophy reveals a landscape of methodological and normative debates beset with dualisms to which a broadly speaking Hegelian approach would appear to have much to contribute.

Such dualistic tendencies are illustrated by a number of interrelated debates within contemporary practical philosophy. Moral philosophers pit realism against constructivism, dividing over the question of whether morality is, in some sense, found or made (Bagnoli 2017).¹ Meanwhile, political philosophers are separated into a number of opposing methodological camps: ideal theorists and non-ideal theorists; political moralists (or utopians) and political realists; those who take fundamental principles to be independent of all facts and those who take all principles to be in some way dependent upon facts about existing social practices (Stemplowska and Swift 2012; Valentini 2012; Rossi and Sleat 2014; Erman and Möller 2015). Such methodological debates inform more substantive normative discussions. To take just one example, in ongoing debates about the justification of human rights, a moral view of human rights as abstract, pre-institutional rights that apply to persons as such competes with a political view in which human rights are justified with reference to their practical role within the international system (Maliks and Schaffer 2017; Etinson 2018; Nickel 2019). Not surprisingly, attempts have been made to bridge or mediate these divides in all these

areas of debate. And yet this very way of putting the problem reveals that the background frameworks that shape these dichotomous ways of thinking are not being called into question in a sufficiently radical manner. Instead of patching up existing models of moral and political philosophy, could it be that a more fundamental rebuild is required?

The overriding aim of the present collection is thus to test the hypothesis that a Hegelian voice can speak to – and make a productive contribution towards advancing – such debates in the analytic tradition of practical philosophy. More specifically, the contributions focus on the capacity of Hegelian thought to advance debates that have arisen within the tradition of Kantian constructivism, understood broadly as an approach to moral and political philosophy decisively influenced by the work of John Rawls and then applied to a range of particular moral and political issues.

In the remainder of this introduction, we will first outline the tradition of Kantian constructivism within analytic practical philosophy and then sketch the recent revival of Hegelian thought and the way it speaks to issues discussed within the constructivism debate. Finally, we provide an overview of the chapters that follow, which are divided into three groups: first, on ethical and metaethical questions about constructivism and realism; second, on questions in political philosophy concerning the relationship between reason and historical social practices; and third, Hegelian perspectives on fundamental political questions concerning democracy and deliberation, pluralism and multiculturalism, and human rights.

1. Kantian Constructivism and Its Critics

According to Bertrand Russell, the birth of analytic philosophy at the beginning of the twentieth century involved a rebellion against both Kant and Hegel (Russell 1959). And yet, through the pioneering work of analytically oriented philosophers such as Peter Strawson (1966) in theoretical philosophy and Rawls (1980) in practical philosophy, Kant's philosophy was interpreted and translated in a manner that made it relevant for the analytic tradition.

Rawls's approach to reading Kant was motivated by a desire to provide an alternative to the dominant tradition of classical utilitarianism. While John Stuart Mill and Henry Sidgwick recognized the significance of Kant's moral philosophy, they saw Kant's categorical imperative as either empty, bereft of substantive action-guiding implications, and unable to rule out even some of the most immoral of acts, or as tacitly reducing to a form of rule utilitarianism (Mill 1998: 51–52, 97; Sidgwick 1981: 209–210). Most fundamentally, both Mill and Sidgwick were suspicious of Kant's metaphysical understanding of moral autonomy, according to which freedom requires ridding the will of all supposedly heteronomous

empirical or sensible impulses and thus possibly of all determined content (Sidgwick 1981: 511–516).

With these criticisms in mind, Rawls developed a variety of decidedly contentful Kantian constructivism. He did so as an approach within moral theory, understood as a part of moral philosophy that stands independent of metaphysics and is concerned with substantive moral conceptions and the relationship between the fundamental concepts of the right and the good (Rawls 1974). His case for Kantian constructivism – with its irreducible commitment to quasi-noumenal, individual self-legislation – rested on the claim that it was better able than utilitarianism or any other approach within the tradition of moral philosophy to account for the moral status and overarching interests of free and equal persons without sacrificing individual interests in the name of a universal principle like maximum utility.

In doing so, Rawls placed the value of autonomy at the heart of the procedure of moral justification itself. Making a firm distinction between theoretical and practical reason, Kantian constructivism replaces the theoretical task of gaining knowledge of ethical first principles with the practical task of seeking an objective social standpoint capable of securing reasonable agreement. Kantian constructivism thus appeals to no basis of normative authority beyond that of shared human reason. With the goal of uniting the universality-based normativity of Kant's categorical imperative with concrete determinacy, Rawls stresses the importance of considered moral and political judgments. Seeking to bring Kantian practical reason closer to intuition, Rawls interprets the categorical imperative as representing the constraints on moral deliberation that we take to be reasonable where fundamental questions of justice are concerned. This deliberation is supposed to realize Kant's kingdom of ends between autonomous moral agents as a democratic realm of ends shared by self-governing free and equal citizens. Rawls thus sees Kant as continuing Rousseau's concern with how social cooperation is possible on the basis of self-legislated principles: by willing in accordance with the demands of public reason, persons obey nothing but their own wills.

Over time, Kantian constructivism as developed by Rawls and his most influential students, notably Onora O'Neill (1990, 1996, 2015) and Christine Korsgaard (1996, 2008, 2009), has become one of most influential and systematic schools of thought in analytic moral and political philosophy (see, e.g., Street 2010; Galvin 2011; Lenman and Shemmer 2012; Bagnoli 2013; Schafer 2015; Bagnoli 2017). Still, notwithstanding its many variants and its myriad profound and wide-ranging insights, there is no constructivist interpretation of Kant's practical philosophy that does not struggle with a variety of conceptual dichotomies. Among these are: (a) facts versus principles; (b) reason versus history; (c) philosophical versus empirical knowledge; and (d) the universal moral law versus its concrete application. Unless Kantian constructivism proves

itself to be capable of bridging these conceptual gaps, it remains open to the charges of: (a) relying on a non-factual, empirically impossible notion of normativity that implies that justice and the good *are* not but only *ought to be*; goodness and justice *should* always be realized but are never actual; (b) being incapable of explaining how historically concrete sociopolitical institutions can embody the good and how moral progress can be rendered intelligible; (c) being unable to show when and how empirical experience informs philosophical judgment; and (d) being incapable of explaining how the strictly nonempirical moral law can have an impact on the empirical world.

At the root of these problems lies the even more fundamental question for any Kantian approach: How can the freedom-guaranteeing moral law be universally valid and have determined content *at the same time*? For example, most Kantian approaches insist on a constructivist, procedural notion of justice that grounds the validity of sociopolitical norms in the autonomous willing of individual rational agents rather than a universal natural order or divine command. However, this notion is open to the challenge of relativism: unless one conceptually deduces a determined set of concrete sociopolitical institutions from the moral law that guides individual rational agents, *any* set of institutions is potentially legitimized. What precludes a Kantian constructivist, rational consensus-producing procedure from justifying minority-discriminating or human-rights undermining practices?

These criticisms and concerns reiterate themes raised by Hegel's critique of Kant and discussed between constructivist and realist interpreters of Hegel. And yet recent discussion surrounding Hegelian constructivism has so far had little impact on debates within the analytic tradition, despite the proliferation of constructivist interpretations of canonical authors. One finds prominent forms of Aristotelian constructivism (LeBar 2008; Tiberius 2012) and Humean constructivism (Lenman 2010; Street 2012; Dorsey 2018), not to mention Spinozistic constructivism (Zuk 2015), Rousseauian constructivism (Mandle 1997; Westphal 2013), Smithian constructivism (Stueber 2017), and Nietzschean constructivism (Silk 2015). But it is only recently that the voice of "Hegelian constructivism in ethical theory" (Laitinen 2016) has begun to emerge strongly, particularly in the form of the "natural law constructivism" that Kenneth R. Westphal (2007, 2017a, 2017b, 2020) presents as reaching its most developed form in Hegel's work.² As things stand, however, it is yet to play a full role in conversations in practical philosophy.

Given the recent emergence of so many different constructivisms, one might be forgiven for thinking that if constructivism means (almost) anything, then it means nothing. If a constructivist moment can be identified within the work of apparent moral realists and moral skeptics alike, then what remains distinctive about a constructivist perspective? Still, there are reasons for thinking that a Hegelian approach is best able to

provide the most adequate and all-embracing framework for preserving the insights of Kantian constructivism with its commitment to individual freedom, while also attending to the concerns with the integration of concrete normative content that have motivated the development of non-Kantian forms of constructivism. In general terms, Hegelian constructivism can therefore be characterized by its concern to conceptually unite the Rousseauian-Kantian ideal of self-legislation on the one hand with determinate content³ on the other in such a way that sociopolitical norms are seen as helping to realize the human good.

2. The Revival of Hegelian Thought

The time is long gone when analytic philosophy could be defined by its rejection of Kant and Hegel. Recent decades have witnessed a revival of Hegelian thought within Anglo-American philosophy that has enlarged the frontiers of the analytic tradition (Redding 2007). Within analytic practical philosophy, the influence of Hegel on, for example, the communitarianism of Charles Taylor (1979) and the pragmatism of Richard Rorty (1990) is widely recognized. Meanwhile, however, many further aspects of Hegel's practical and theoretical philosophies have been reinterpreted by the Pittsburgh school of neo-Hegelianism, including John McDowell and Rorty's student Robert Brandom. Both, like Rorty, are decisively influenced by the work of Wilfrid Sellars. Furthermore, there is the non-metaphysical or post-Kantian approach to Hegel that can be traced back to Klaus Hartmann (1972) and is most closely associated with the pioneering and agenda-setting work of Robert B. Pippin (esp. Pippin 1989). As Terry Pinkard, another influential post-Kantian interpreter of Hegel, puts it, Pippin's Hegel was "a Hegel who was not only responding to Kant, Fichte, and Schelling but also to Strawson, Sellars, and Rawls" (Pinkard 2008: 145).

And yet, while these approaches provide interpretations of Hegel's conception of sociopolitical normativity, they have so far had only a limited impact on current debates in analytic practical philosophy. While one can find important work by Michael Hardimon (1994) and Frederick Neuhouser (2000) that draws upon these new readings of Hegel to take up questions in social and political philosophy concerning fundamental questions of freedom and justice, there is no post-Kantian idealist research tradition in contemporary practical philosophy to rival the tradition of Kantian constructivism. This is regrettable, since Hegel promises to have addressed all the problems Kant's practical philosophy faces without (a) giving up on Kant's notion of nonrelativistic, universal normativity; (b) reverting back to pre-critical dogmatist philosophy; and (c) falling into the trap of subjective (that is, objectivity-undermining) idealism. To date, there exists no reading of Hegel that either shows that he must fail to meet this self-imposed standard or how he can live up

to it. Given this need for further evaluation, this collection thus investigates whether Hegelian philosophy is able to supply the much-needed categories that analytic practical philosophy requires for overcoming the contradictions that arguably plague Kantian constructivism.

It is not simply the case, however, that Hegel could and should be of interest to analytic practical philosophers because of the resources he offers for continuing the project of Kantian constructivism in a revised form. As one might expect, just as constructivist interpretations of Kant, or Kantian forms of constructivism, have faced criticisms from the standpoint of moral realism and realist readings of Kant, so pragmatist and post-Kantian readings of Hegel have themselves proven controversial. A recent current of metaphysically oriented interpreters of Hegel are thus reviving the notion of Hegel's commitment to a conceptual reality beyond the confines of Kant's methodological focus on individual self-consciousness. Moreover, given the systematic nature of Hegel's philosophy, such readings often also suggest that the attempt to extricate Hegel's practical philosophy from its encompassing metaphysical framework threatens to undermine both the coherence and the appeal of Hegel's philosophical project (e.g., Thompson 2019; Kervégan 2018; Krijnen 2019).

This raises the question, however, of whether Hegel undermines the Kantian constructivist commitment to the irreducibility of autonomous individuality: if Hegel argues that particular individuals must not be simply "assumed" and that there are metaphysical grounds for sociopolitical reality and its constituent members, does this entail that individual choices and actions can be "explained away" with reference to the causality of a universal metaphysical principle? And if so, why does Hegel seem to insist on the importance of individuality and its free choice? Does he hope to combine the merits of metaphysical and individual causality without defining either in terms of the respective other?

Most recent interpreters argue that one of these kinds of causality needs to be prioritized.⁴ Some of them thus focus on Hegel's insistence on the objective and universal character of sociopolitical norms and interpret his political philosophy as unapologetic cognitivist realism (e.g., Taylor 1975; Houlgate 1986, 2006; Winfield 1988, 1998, 2005; Stern 1990, 1993; McDowell 1996; Maker 1994; Peperzak 2001; Kreines 2015). According to these views, Hegel relies on a robust notion of eternal, ontological truth (*Geist*)⁵ that defines sociopolitical normativity in a non-relative, unconditional manner: right/justice is the universal grounding principle *Geist* in its objective, concretely manifest form. It defines rational sociopolitical institutions and individual actions and historically manifests itself in different cultural and geographical contexts. This is to preserve Kant's concern with the universality of norms *while* ensuring that this universality is contentful. Specific and concrete normatively valid sociopolitical norms and institutions and the concrete individual

actions and practices thus *are* the universal *Geist*, albeit in particularized (and thus historically defined) and individualized form. However, this raises the worry of whether *Geist*'s universality undermines the kind of irreducibly individual freedom that Kant and his constructivist followers are so concerned with. If all norms, practices, and actions are somehow grounded in or caused by the activity of universal *Geist*, can there be anything like the individual choice and self-determination Hegel insists on throughout his writings on objective *Geist*?

In order to protect individual freedom against *Geist*'s seemingly monist, potentially Spinozist, all-encompassing universality, other interpreters thus take Hegel to advocate a variety of decidedly post-*Kantian*, individuality-focused, and history-sensitive pragmatism: social norms are legitimate if a historical process of individual and collective trial-and-error style experimentation has proven that there are implicit and explicit reasons that justify the notion that they "work" (Pinkard 1988; Pippin 1989, 2008; Brandom 2000, 2002; Pippin and Höffe 2004; Deligiorgi 2006; Yeomans 2012, 2015; Wood 2014). Not *Geist* but historically contextualized individuals and collectives are the irreducible authors of norms and practices, and no overarching universal principle can explain away them and their self-determination. While this ensures that individuals remain independent authors of sociopolitical norms, the concrete content of the norms is supplied by history: a teleologically oriented historical process of development towards ever greater freedom ensures that there exist determined norms and practices compatible with individual self-determination. Such readings raise worries about the potentially deterministic and relativistic implications of the fundamental commitment to history. Does history condition individuals' choices, thus undermining their individual freedom? If history could be otherwise, could objective *Geist* be otherwise, also? Does this undermine Hegel's claim to be describing universality-based normativity?

In an attempt to avoid these issues, some commentators have been inspired by Hegel's emphasis on the importance of individual freedom, critical reflection, and individuality-based, collective reasoning about the nature of sociopolitical norms. They read him, often within the framework of recognition theory, as defending an approach that is at once universality-oriented and individualist (e.g., Hardimon 1994; Honneth 1996; Plant 1999; Neuhauser 2000; Moyar 2011). According to these views, norms are expressive of irreducibly individual and collective freedom and the content is provided by the concrete determinations that individuals and collectives freely commit to. While such readings might face similar accusations of relativism as Hegel leveled against Fichte and other contractualists, due to their fundamental commitment to individual acts of consent, they are able to account for Hegel's remarks about the irreducibility of individual reflection and choice.

Debates surrounding the issues of individual choice and historical relativity should thus be of interest even for moral realists and metaphysical and system-oriented interpreters of Hegel who are unconvinced by constructivist readings. These discussions might raise new possibilities regarding the compatibility of individual freedom and the kind of realist metaphysical backing to which a robust conception of normativity can and should appeal. Alternatively, such debates have the capacity to enrich the landscape of competing positions further by calling into question the categorical distinction between metaphysically warranted realism and individuality-defending constructivism by providing a reading of Hegel informed by elements of both positions. While the jury is still out on which of these readings of Hegel best captures his own and/or generally valid intellectual intuitions, the authors in this collection will be seen to provide their own, sometimes utterly novel, rationales for his arguments.

3. Beyond Kantian Constructivism: Hegelian Ethics, Political Normativity, and Contemporary Politics

The contributions to this volume fit broadly under three headings:

Section 1: Hegelian Ethics Between Constructivism and Realism discusses Hegel's approach in the context of the aforementioned debate between constructivism and realism. Is Hegel a constructivist or does he seek to unite aspects of constructivism and realism? Indeed, can Hegel's position be adequately captured with reference to the categories of constructivism and realism at all? Which-ever way Hegel's position is understood, how does it build upon and seek to move beyond Kant's practical philosophy?

Section 2: Hegelian Political Normativity Between Reason and History focuses on the role that history plays in Hegel's approach. If the content of sociopolitical normativity (*Geist*) is provided by history, does this render *Geist* contingent and relativistic as, by definition, history could be otherwise? Or does Hegel assume a notion of necessary historical development according to which the increase of freedom and normative content in human affairs is inevitable? If so, on what grounds does he make this claim?

Section 3: Hegelian Perspectives on Contemporary Politics asks what, if anything, we as contemporary thinkers who live in rather different historical circumstances than Hegel did can learn from his thought. Hegel holds seemingly antiquated views on a wide range of topics, including monarchy, democracy, public opinion, gender relations, parliamentarianism, the constitutional separation and coordination of powers, the form and function of economic interest groups and political parties, the problems of economic overproduction,

abject poverty and extreme wealth, war, and multilateralism. Despite this, are there useful conceptual resources to be found in Hegel's account of sociopolitical normativity that might help us deal with contemporary challenges such as those arising in debates about multiculturalism, democracy, and human rights?

In the remainder of this introduction, we will expand upon the context of these three areas of debate and the questions they raise and situate the contributions that follow with reference to them.

Section 1: Hegelian Ethics Between Constructivism and Realism

Constructivism is presented by the early Rawls and by O'Neill as seeking to forge a third way between realism and relativism. For Rawls, Kantian constructivism is to take its place as an approach to moral theory that is superior not only to utilitarianism but also to the realist approach of rational intuitionism. The focus of ethics in the Kantian constructivist sense is thus the practical task of vindicating the authority of practical reason rather than the theoretical task of identifying universal moral truths.

As such, constructivism can be difficult to place within the landscape of analytic moral philosophy. Early reactions to constructivism struggled to pin down how the view should be understood, specifically whether it was a position in metaethics or a substantive position in normative ethics (see, e.g., Darwall, Gibbard and Railton 1992). While some proponents consider Kantian constructivism as defining a unique metaethical commitment, two prominent Kantian constructivists disagree. Korsgaard, for one, argues that given its practical focus, Kantian constructivism is not a metaethical view (Korsgaard 2008; but cf. Hussain and Shah 2013). And indeed, for the later Rawls (1996) in particular, who develops a form of political constructivism within the framework of his political liberalism, constructivism must remain agnostic about its metaethical implications lest it overstep the bounds of the common fund of ideas that can be drawn from the domain of the political. In a different vein, Westphal (2016) has argued that constructivism provides a way of justifying the objectivity of practical reason without debating moral realism.

It remains open for discussion, then, how the practical philosophies of Kant and Hegel – and forms of Kantian and Hegelian constructivism – stand with reference to the distinction between ethical theory and metaethics. Regardless of such classificatory issues, though, it is widely understood that Kantian constructivism unites some highly attractive features: (a) self-determining individual subjects are defined as the authors of sociopolitical norms, with subjects' normative authorship and ownership preventing alienation from or dependency on extra-subjective

sources of normativity, such as nature or God; and (b) it is nonrelativistic because all rational subjects are shown to agree on a single set of norms.

While feature (a) is often accepted as a necessary part of any convincing account of normativity, constructivism's fundamental reliance on the notion of individual choosing subjects can be argued to undermine feature (b): if individual subjects are the fundamental choosers, how can *any* determined content be identified as necessary? The notion of choosing individual subjects seems to imply that *any determined thing* can be chosen. Since their choice is undetermined by definition, any determinacy has to be externally introduced, is contingent, and lacks necessity, universality, and objectivity. If choice is first and content second, the objectivity of content is undermined by choice's contingency.

This is pointed out by realists who are happy to assume an objective order of moral facts, either given by nature, God, or rationality itself. While rational individual subjects have choice, this choice is determined by its place in the real order of value. The real order that also defines moral facts is first and subjects' choices are second: the best subjects can do is to choose what they *must* choose, given the order of nature, the cosmos, God's will, or rationality. While such approaches are able to account for the necessity, objectivity, and universality of moral and sociopolitical norms, they seem to undermine the notion of subjective authorship and ownership of the norms. This may result in subjects' alienation from and dependence on external norms. And in a final consequence, this might even undermine the notion of individual agency altogether: if it is ultimately nature, substance, or God who orientates, causes, and defines the course of action, individual agents as such do not exist. It thus seems that if objective content is first and choice is second, the freedom and existence of individual choosing subjects is undermined by the content's given character.

Several strategies to deal with constructivism's alleged relativism have been developed in response to the realist challenge. For example, O'Neill (1996) has argued that certain determined moral norms follow from the notion of universal noncontradictory practical reason and practical willing. However, if it can be shown that her notion of practical reason relies on the irreducible and grounding concept of individual subjects, her argument might turn out to be a tautology: individuals will what is good for individuals (O'Neill 1996). The determinacy of this good does not seem to inhere in the notion of individual subjects. Meanwhile, Korsgaard (2009) and Jürgen Habermas (1993) have been read as altogether rejecting attempts at deducing determined rational norms from the notion of choosing individual subjects. Instead, the content of sociopolitical normativity is to be determined by practical reasoning, reflective endorsement of the categorical imperative, or dialectical processes of uncoerced reasonable exchange among individuals. On this view, if alienation and dependence are to be avoided, it cannot be the task of

the moral philosopher to theoretically deduce the content of norms that individual subjects are to practically define and endorse. However, this might amount to giving up on the project of philosophically deducing and thus justifying the content of rational norms altogether. Leaving it to individual subjects to decide the content of norms might amount to relativistically avoiding the philosopher's responsibility to think through the contingencies of the empirical world and to failing to define universally valid conceptual content. Furthermore, it raises the question of how individual subjects themselves are grounded. In the absence of a universal individuality-explaining principle, the existence of individual agents seems inexplicable, uncaused, or simply assumed. Once more, constructivism seems incapable of defining necessary normative content and of justifying its individualist premises.

While realist approaches that appeal to a divine will have little contemporary currency, naturalist approaches fare better. On such views, human individuals and societies are seen as part of a natural order and as such should follow certain naturally given patterns of normative behavior (McDowell 1996; Pinkard 2012). Aristotle and Hume might be subsumed in this category: where Aristotle (1980) talks about naturally given, happiness-ensuring virtues, Hume (1978) proposes the notion of naturally given human dispositions and drives. However, such accounts seem to make subjects depend on determining nature's universality (Aristotle) and on their determining drives (Hume). Both seem to undermine the notion that individual agents are truly independent, that is, self-determining and thus free. It seems that unless agents are the true authors of actions and are able to effectively will otherwise than nature or their drives demand, they lack proper choice, self-determination, meaningful conscience, and responsibility.

In an attempt to avoid perceived constructivist relativity about content and realist/naturalist undermining of freedom, Hegel has been read as proposing an alternative approach to sociopolitical normativity. The jury is still out on what Hegel's proposal exactly looks like and whether he succeeds in his attempt to avoid the Scylla of relative, contingent, and thus non-normative content, and the Charybdis of a freedom-undermining real normative order. What is clear to some, though, is that Hegelian ethics might just supply the concepts required to overcome Kantian constructivism's alleged relativity and formality. The first set of chapters examines how Hegel's approach seeks to supply normativity with content and how it can be related to the notions of realism and constructivism in general and to Kantian constructivism in particular.

In the collection's first chapter, "Hegel's 'Actualist' Idealism and the Modality of Practical Reason," **Paul Redding** argues there is much merit in John N. Findlay's argument that Hegel is committed to a position that is best described as "modal actualism" and that rejects the "modal possibilism" of Leibniz and Kant and more recent possibilist varieties.

To the actualist Hegel, judgments about *Sittlichkeit* and its actions depart from and are contextualized by *actual* practices and convictions. In contrast, possibilist Kantian moral judgments are rooted in judgments about intention and moral possibility – they are about how agents *ought* to act. Still, Hegel preserves Kant-style reflection as referring to and occasioned by actual epistemic and practical conflicts. Such reflection is collectively undertaken by concrete subjects that belong to and are conditioned by natural and cultural realms. While Kant's possibilist commitments and their concern with absolute unconditionality can be argued to entail a lack of determined conceptual content, Redding suggests that it is Hegel's fundamental commitment to actuality identified by Findlay that enables him to avoid Kantian formalism.

In contrast to Redding's focus on actuality, **Sebastian Stein** argues in "Choosing to Do the Right Thing: Aristotle, Kant, and Hegel on Practical Normativity and the Realism-Constructivism Debate" that the ultimate metaphysical principle that grounds Hegel's practical philosophy is the "concept of the will." This combines an Aristotelian realist concern with the irreducible objectivity of sociopolitical norms with a Kantian constructivist concern with unconditioned, self-determining subjectivity. Due to their ontological participation in the concept, Hegel's individual subjects are as autonomous and free to choose as Kant's, while the concept-based, universal objectivity of the sociopolitical norms that they should choose is as real as it is for Aristotle. Within the concept, subjectivity (individual freedom) and objectivity (reality of norms) are irreducible and thus different *while* they are compatible and thus identical. This speculative notion of an "identity within difference" is not available to Aristotle's substance metaphysics that self-contradictorily turns subjectivity objective, thereby depriving subjectivity of its own means of contrast. Nor is it within reach of Kant's subjective idealism, which turns objectivity subjective and thus deprives subjectivity of a means of contrast. According to Stein, a systematic-metaphysical reading of Hegel is thus able to accommodate the constructivist concern with individual self-determination and the realist concern with normative facticity.

With a similar focus on unity, **Joshua I. Wretzel** argues in "Constraint and the Ethical Agent: Hegel Between Constructivism and Realism" that Hegel combines a constructivist concern with human praxis with a realist notion of normatively robust universality. Wretzel's reading contrasts with the "constructivism" of Pippin and the "second-naturalism" or "naturalized platonism" of McDowell. According to Wretzel, while Hegel allows for the notion of nature in the form of motivating drives to constrain reflective moral reasoning, this does not undermine the notion of rational self-determination. For Hegel, the natural drives are part of the individual's spirituality (*Geist*), such that his account of ethical motivation does not "leave nature behind," as argued by Pippin, yet it cannot be explained in terms of nature either. Instead, it perfects nature in a

manner that is compatible with the autonomous self-determination of the human being that is essentially *geistig*.

Questioning traditional metaethical categories, in “Hegel’s Metaethical Non-Constructivism,” **Sebastian Ostritsch** argues that Hegel occupies a metaethical position that defies categorization in terms of realism and constructivism. Hegel rejects moral antirealism and moral realism alike: he is not a social constructivist or a constructivist in a broader sense because he rejects the idea that the normative realm is the result of a preexisting human agency or the result of concrete individual or collective human actions. At the same time, he is not a strong realist because for him there is no moral reality independent from the historically situated social order of *Sittlichkeit*. Instead, Ostritsch argues that Hegel is best described as a weak moral realist because the normative order of *Sittlichkeit* predates any particular action.

Discussing Hegel through his impact on Rawls, in “Rawls’s Post-Kantian Constructivism,” **James Gledhill** focuses on the significance of Hegel for understanding the nature and development of Rawls’s Kantian constructivism. Rawls’s *Lectures on the History of Moral Philosophy* are shown to be an indispensable aid for understanding his constructivism, for they testify to the fact that Rawls’s approach to normative justification develops out of a dialogue not only with Kant but also with Hume and Hegel. According to Gledhill, Rawls’s lectures follow a Hegelian approach in seeking to reconcile Hume’s naturalistic idea of justice as an evolved social practice with Kant’s metaphysical conception of moral autonomy. This interpretation reveals clear but largely unnoticed similarities between Rawls’s Hegelian reading of Kant and recent post-Kantian interpretations of Hegel. Such an approach to constructivism is taken to offer the best prospects for reconciling the competing demands of reflective endorsement and objectivity within constructivism, the former desideratum being emphasized in Korsgaard’s constructivism and the latter in O’Neill’s. This notwithstanding, Gledhill concludes that the Hegelian nature of Rawls’s constructivism raises questions about the very ambitions of the constructivist enterprise.

Section 2: Hegelian Political Normativity Between Reason and History

The issues raised by the chapters in the second section again demonstrate the value of a Hegelian perspective for debates in contemporary practical philosophy, here with respect to the relationship between reason and history. Once again, this can be related to debates in the tradition of Rawlsian and post-Rawlsian constructivism. In his later work, Rawls (1996) moves from Kantian constructivism in moral theory to a form of political constructivism within the framework of political liberalism. This sees him grappling with some of the same issues in Kant’s

practical philosophy that were taken up in the tradition of post-Kantian idealism. More specifically, Rawls takes up the problem of whether and how his conception of justice can be realized within historically concrete social practices and institutions given that citizens possess both a political sense of justice and a diversity of reasonable comprehensive religious and philosophical doctrines. With the benefit of hindsight, it is possible to see that Rawls's own approach was always one of "constructing justice for existing practice" (James 2005). But this becomes more pronounced in Rawls's political turn. In this process, Kantian constructivism in moral theory became Kantian constructivism in political philosophy, or more simply, political constructivism.

While Rawls's principles of justice are developed within ideal theory, already in part three of *A Theory of Justice* Rawls had sought to provide reasons to believe that his Kantian conception of justice would be congruent with the conceptions of the good that citizens would develop within a framework of basic social institutions regulated by that conception of justice. Citizens would then be in a position to endorse this conception of justice as constitutive of their social freedom and not, say, as a product of indoctrination or ideological distortion. With the move to political liberalism, Rawls takes up the sociohistorical question of whether – when liberalism is understood as a political conception that draws upon ideas from and applies to the domain of the political – the social circumstances that make liberalism necessary also make it possible. Rawls locates the origins of political liberalism in the Wars of Religion and locates the possibility of fair cooperation in the principle of religious toleration that was a hard-won lesson of religious conflict. Rawls's conception of justice therefore has historical conditions, and this finds an echo in Hegel's conception of the historicity of philosophy.

However, as Arto Laitinen, Michael J. Thompson, and Kenneth R. Westphal observe in their chapters, political constructivism, and more broadly a Hegelian appeal to the normativity of history, might be read as raising the specter of relativism. If history is contingent and philosophy depends on history, philosophy and its claims could be otherwise. This defines a key challenge to approaches that would seek to remedy the lack of determined content within Kantian constructivism by an appeal to history. How can Hegelian constructivism amount to more than the crude and potentially self-undermining pragmatist claim that what normatively matters is what happens to work at a given historical time? Exploring possible escapes from the threat of relativism, the chapters in the second section are thus concerned with Hegel's understanding of the historicity of practical reason.

As **Angelica Nuzzo** points out in "Hegel's Political Philosophy as Constructivism of the Real," the notion that thought is always to some degree historically conditioned finds an early expression in the work of Giambattista Vico. Due to his view that humans can understand only what

humans have made or constructed, Vico can be seen as a precursor of an epistemological form of constructivism. Nuzzo accordingly traces the difference between Kant's and Hegel's notions of constructivism back to Vico's idea of *verum-factum* (the true as the made). However, while both thinkers qualify as constructivists in some sense, they differ on *what it is that is being constructed*. This difference is brought out with respect to the issue of a right to rebellion. Where Kantian finite minds construct a moral ideal, Hegel's historical and cultural production of the collective human mind constructs the real. Still, as opposed to Rawls's constructivism, in Nuzzo's interpretation, the approaches of both Kant and Hegel are committed to considering the relevance of the historical present for the process of construction.

Kenneth R. Westphal's "Kant, Hegel, and Our Fate as a *Zoön Politikon*" provides a sweeping panorama of the history of philosophical reflection on our natures as social and political animals, revealing fundamental underlying similarities in the positions of Aristotle, Kant, and Hegel. Westphal builds upon his previous analysis of an approach to normative justification that he dubs "natural law constructivism" and that he traces back to Hume's definition of justice as an artificial but nonarbitrary virtue. Against this background, Westphal focuses in the present chapter on what human beings need to be capable of becoming if they are to understand and assume the rights and obligations justified by natural law constructivism. According to Westphal, the completion of the project of the "Doctrine of Right" (or Justice) within Kant's *Metaphysics of Morals* depends upon the "Doctrine of Virtue." This sets the stage for the argument that Hegel's *Philosophy of Right* echoes the structure of Kant's political philosophy. Hegel's account of ethical life further integrates Kant's and Aristotle's insights by establishing how the customs, economy, civil institutions, and law of a modern republic are constructions of the reason of free agents that are necessary to realizing Kant's principles.

Arto Laitinen, in "Finding by Making: The Mediating Role of Social Constructions, Commitments, and Resonance in Hegelian Normative Realism" charts one route whereby metaethical questions about the status of constructivism naturally raise and require answers to questions about the relationship between normative truth and history. Critics of constructivism often pose a dilemma for constructivism in the form of a revised version of Plato's Euthyphro question: is something normatively correct because it is the outcome of a constructivist procedure or is it the outcome of a constructivist procedure because it is normatively correct? Laitinen's starting point is a critique of Westphal's claim, in his presentation of Hegel's natural law constructivism, that natural law constructivism can sidestep this objection. Laitinen argues that normativity requires an unconstructed ultimate basis, leading him to propose what from opposing perspectives might be considered either a Hegelian "mediated realism" or a "sublated constructivism." Notwithstanding the

need for a normative anchoring that goes beyond constructivist procedures, Laitinen goes on to discuss two mechanisms that lead to historical change in normative truths: first, the way in which personal and collective commitments change the normative landscape, and second, the way that this can also happen as a function of individual and collective resonance, or in other words, the felt authenticity of normative experience.

In “Historical Constructivism,” **Christopher Yeomans** focuses directly on the dichotomy between reason and history, applying the meta-philosophical notion of philosophy’s historical conditioning to the analyses of the concept of property in Kant’s Universal Principle of Right, Fichte’s Summons (*Aufforderung*), and Hegel’s Command of Right (*Rechtsgebot*). Methodologically, Yeomans’s approach draws on two sources: first, the notion developed by Reinhart Koselleck according to which the temporal form proper to history is the way that the present is constituted as a field of tension by expectations that pull in different and sometimes opposite directions, and (2) the Hegelian conception of philosophy, which involves bringing multiple perspectives to bear on the object of study. Yeomans concludes that because Hegel provides a social theory that more fully articulates the terms of the ethical debate between himself, Kant, and Fichte, his account has some of the character of a metaethical perspective. The chapter ends with a call for a “new constructivism” that is attentive to current social perspectives on autonomy. Such a constructivism would back up to the conceptual perspective and then do the sociological work of identifying the social perspectives that embody those conceptual perspectives in extant social institutions.

Challenging the relativizing impact of history on philosophy, **Michael J. Thompson** argues in “Critical Agency in Hegelian Ethics: Social Metaphysics Versus Moral Constructivism” that Hegel possesses a critical, realist theory of practical agency that is based not on a constructivist form of practical reason, but on the fundamental social-relational substance of human life. This means that a truly critical form of agency is defined by a grasp of the conceptual structure that undergirds our sociality with others as ontological forms of life that enhance our capacity for self-realization. Reasons thus possess a metaphysical structure that allows the mind and objective reality to share the same structure and therefore overcome the problems of estrangement and diremption. This entails that rationality cannot be conceived simply as what is agreed upon through pragmatic means within an intersubjective community. Rather, the reasons we give are valid to the extent that they adhere to the conceptual structures in the world.

Robert B. Pippin’s “Hegel on a Form of Collective Irrationality” articulates and exemplifies the approach to reanimating Hegel’s thought for which his work has become known. Pippin focuses on one of Hegel’s most famous observations about the historicity of philosophy, that philosophy is “its time comprehended in thought.” In unpacking this claim,

Pippin shows that we can derive from it an interpretive approach to how historical texts such as Hegel's own should be appropriated from our contemporary standpoint. What remains living and relevant in Hegel is not simply that he may still have something to teach us about the framework of social institutions required to realize freedom. Rather, Hegel provides more general lessons about the basis of social unity and the challenges to achieving it. According to Pippin's Hegel, social groups depend on rational unity, and where such rational unity is lacking, groups may succumb to collective self-deceit. Pippin concludes that this is exactly our contemporary situation, so his chapter serves as a bridge from reflection on the relationship between reason and history to questions about the contemporary relevance of Hegel's philosophy.

Section 3: Hegelian Approaches to Contemporary Politics

Kantian constructivism is not only a position within metaethics and/or normative ethics and an approach to the nature and justification of political normativity. It also provides a normative framework within which to think through some of the most significant challenges of contemporary politics.

For example, Rawls's *Political Liberalism* (Rawls 1996) and its approach to political justification was animated by the problem of achieving social unity in the face of religious and ethical pluralism. Rawls thus developed political constructivism not only to justify a political conception of justice for regulating basic social institutions but also to provide the content of public reason, a framework for concrete political deliberation that he hopes can be shared by all citizens, whatever their comprehensive religious or philosophical doctrines. Rawls's theory of public reason, as a form of deliberative democracy, has been seminal to an influential strain of real-world, problem-oriented democratic theory.

A further example of the capacity of constructivism to provide a framework for contemporary political debates is provided by the political conception of human rights that Rawls develops in his account of international justice in *The Law of Peoples* (Rawls 1999). Within the tradition of Kantian constructivism, the issue of the scope of a constructivist conception of practical reason has long been debated. For O'Neill (1996, 2015), a Kantian constructivist approach is defined by the cosmopolitan scope of practical reason. She contrasts this with the restricted scope of Rawls's contractualism, which begins by constructing a conception of justice for a closed society. Likewise, Rainer Forst (2011) develops a Kantian constructivist conception of global justice and human rights that has a universal, cosmopolitan scope. In his own approach to international justice, by contrast, Rawls argues that while the scope of practical reason is indeed universal, this universality does not consist in applying a universal conception of justice to different subject matters. Rather, universality

is achieved by taking up an appropriate sequence of institutions. This begins with a conception of justice for a domestic society and then works inwards to issues of local justice and outwards to issues of international justice (Rawls 1996: 259-262, 1999: 85-86). As part of this, Rawls develops a political conception of human rights that challenges the orthodox view within analytic practical philosophy that human rights are pre-political moral rights.

Kantian constructivism therefore faces widely debated challenges in understanding the relationship between theory and practice. In his later work on religious and ethical pluralism and on international justice and human rights, Rawls can be seen as learning lessons from Hegel. The final section is dedicated to further pursuing how a Hegelian framework can help to address real-world political issues.

In his chapter, “Saving Multiculturalism with Stakeholding: Hegel and the Challenges of Pluralism,” **Thom Brooks** tackles contemporary challenges to multiculturalism. Rejecting the argument that multiculturalism undermines solidarity and social cohesion, Brooks develops a Hegelian account of reconciliation and stakeholding informed by the work of Bhikhu Parekh. For Brooks’s Hegel, preventing poverty and political alienation is necessary in order to avoid their undermining of a sense of social belonging and investment in society. By achieving reconciliation with society’s rational institutions, Hegelian individuals develop a sense of community and belonging. Brooks then compares Parekh’s and Rawls’s views on diversity within society. While Rawls sees diversity as an obstacle to be overcome, Parekh’s model understands diversity as a challenge to be embraced. For Brooks, this means that Parekh is closer to Hegel than Rawls is: it enables him to explain how multicultural elements can be integrated into an overarching culture without defining difference as a threat. While Hegel is right that poverty and lack of social identification are the cause of social fragmentation rather than multiculturalism, stakeholding can foster reconciliation also and especially in multicultural societies.

In “Hegelian *Sittlichkeit*, Deweyan Democracy, and Honnethian Relational Institutions: Beyond Kantian Practical Philosophy,” **Paul Giladi** traces a path of thought from Kant through Hegel to John Dewey and from there to the contemporary neo-Hegelianism of the critical theorist Axel Honneth. Giladi presents Kant as paving the way for an intersubjectivist critique of liberalism that is taken further by Hegel. Dewey serves as a bridge for conveying Hegelian thought into the present by providing a radical democratic interpretation of Hegelian *Sittlichkeit*. Giladi argues that this provides the basis for a critical theory of contemporary society. While this theory has been developed by Honneth, who explicitly draws upon Hegel and Dewey, Giladi also provides reasons for thinking that Dewey’s position offers additional critical resources to Honneth’s, before applying these insights to the #BlackLivesMatter movement and its campaign for racial and social justice.

In the final chapter, **Andrew Buchwalter** discusses “Hegel and the Intercultural Conception of Universal Human Rights,” developing an intercultural approach to human rights that he finds to be implicit in Hegel’s thought. This approach shares the basic assumption of political conceptions of human rights that find their origins in Rawls, according to which a conception of human rights serves the practical purpose of providing a basis for international cooperation. Indeed, Buchwalter’s Hegel ties the nature and validity of a doctrine of universal human rights to the actual modes and practices of sociation of the world’s persons and peoples. But in drawing upon Hegelian recognition theory, the intercultural approach also identifies context-transcending norms that serve as a basis for subjecting such modes and practices of sociation to systematic evaluation and critique. Hegel thus asserts that the validity of norms is tied to the experiences of real-world communities and, furthermore, that the identities of such communities depend upon intersubjective processes of self-definition which not only entail reference to other cultures and communities but also occasion practices of mutual adaptation that serve to forge generally shared norms and values. In this way, Hegel provides for an account of universal human rights whose validity is established in the social interactions of the world’s persons and peoples.

This concludes the collection’s journey through the contemporary Hegelian landscape within practical philosophy and its implicit and explicit engagement with the notions popularized by Kantian constructivism. One central insight that these chapters can be seen as collectively communicating finds expression in a fragment by one of Hegel’s favorite philosophers, Heraclitus: “The beginning and the end are shared in the circumference of a circle” (Heraclitus 1979: 75). Applied to philosophical justification, this might be read to mean that unless one commits *from the very beginning* to some kind of systematic unity of reason and the world that at the same time respects the differences of the ideal and the real, of freedom of choice and determined ends, of individual self-determination and normative objectivity, then overcoming the dualisms of Kantian constructivism may remain a pipe dream. Whether neo-Hegelian approaches to sociopolitical normativity manage to define such unities in a non-dogmatic, non-monist, and non-question begging manner remains to be decided. What is already certain, however, is that the authors of the following chapters are looking forward to mutually beneficial constructive exchange and critical engagement with their readers, irrespective of where the conversing parties start and where they end up.

Notes

1. As Stephen Engstrom (2013: 138) remarks, “As is commonly found in controversies of this sort, the question at stake tends to be represented in an either/or fashion, as a choice between two strictly contradictory positions. Cognitivism or non-cognitivism, realism or antirealism.”

2. Also relevant in this connection are: the interpretation of Hegel's *Philosophy of Right* – informed by Rawls's Kantian constructivism – provided by Benson (1991); the Hegelian critiques of Korsgaard developed by Bird-Pollan (2011) and Moland (2011); the socialized view of Kantian constructivism in Walden (2012), dubbed by Schafer (2015) a form of "Hegelian constructivism;" the account of Hegel's *Philosophy of Right* as a metaethical view in Ostritsch (2014); and the interpretation of constructivism from the point of view of Brandom's Hegelian semantics presented in Farneth (2018). See also the constructivist interpretation of Hegel's theoretical philosophy in Rockmore (2016).
3. Such as concrete norms, institutions, and practices that manifest in certain sociohistorical developments.
4. For a recent sample of new voices on Hegel, see Moyar (2017).
5. Often translated as mind or spirit, despite the former's subjectivist and the latter's spiritualist connotations.

References

- Aristotle (1980). *Nicomachean Ethics*, trans. D. Ross, ed. L. Brown. Oxford: Oxford University Press.
- Bagnoli, C. (ed.) (2013). *Constructivism in Ethics*. Cambridge: Cambridge University Press.
- . (2017). Constructivism in Metaethics, in *The Stanford Encyclopedia of Philosophy* (Winter 2017 edition), ed. E.N. Zalta. URL = <<https://plato.stanford.edu/archives/win2017/entries/constructivism-metaethics/>>.
- Benson, P. (1991). The Priority of Abstract Right and Constructivism in Hegel's Legal Philosophy, in D. Cornell, M. Rosenfeld and D.G. Carlson (eds.) *Hegel and Legal Theory*. New York: Routledge, 174–204.
- Bird-Pollan, S. (2011). Some Normative Implications of Korsgaard's Theory of the Intersubjectivity of Reason. *Metaphilosophy* 42(4): 376–380.
- Bowman, B. (2013). *Hegel and the Metaphysics of Absolute Negativity*. Cambridge: Cambridge University Press.
- Brandom, R.B. (2000). *Articulating Reasons: An Introduction to Inferentialism*. Cambridge, MA: Harvard University Press.
- . (2002). *Tales of the Mighty Dead: Historical Essays in the Metaphysics of Intentionality*. Cambridge, MA: Harvard University Press.
- Darwall, S., A. Gibbard and P. Railton (1992). Toward *Fin de siècle* Ethics: Some Trends. *The Philosophical Review* 101(1): 115–189.
- Deligiorgi, K. (2006). *Hegel: New Directions*. Montreal: McGill-Queen's University Press.
- Dorsey, D. (2018). A Perfectionist Humean Constructivism. *Ethics* 128(3): 574–602.
- Engstrom, S. (2013). Constructivism and Practical Knowledge, in C. Bagnoli (ed.) *Constructivism in Ethics*. Cambridge: Cambridge University Press, 133–152.
- Erman, E. and N. Möller (2015). Practices and Principles: On the Methodological Turn in Political Theory. *Philosophy Compass* 10(8): 533–546.
- Etinson, A. (ed.) (2018). *Human Rights: Moral or Political?* Oxford: Oxford University Press.
- Farneth, M. (2018). Constructivism in Ethics: A View from Hegelian Semantics, in K. Jung (ed.) *Religious Ethics and Constructivism: A Metaethical Inquiry*. New York: Routledge, 63–81.

- Forst, R. (2011). *The Right to Justification: Elements of a Constructivist Theory of Justice*, trans. J. Flynn. New York: Columbia University Press.
- Galvin, R. (2011). Rounding up the Usual Suspects: Varieties of Kantian Constructivism in Ethics. *Philosophical Quarterly* 61 (242): 16–36.
- Habermas, J. (1993). *Justification and Application: Remarks on Discourse Ethics*, trans. C.P. Cronin. Cambridge, MA: MIT Press.
- Hardimon, M.O. (1994). *Hegel's Social Philosophy: The Project of Reconciliation*. Cambridge: Cambridge University Press.
- Hartmann, K. (1972). Hegel: A Non-Metaphysical View, in A. MacIntyre (ed.) *Hegel: A Collection of Critical Essays*. Garden City, NY: Doubleday, 101–124.
- Heraclitus (1979). *The Art and Thought of Heraclitus*, ed. C.H. Kahn. Cambridge: Cambridge University Press.
- Honneth, A. (1996). *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, trans. J. Anderson. Cambridge, MA: MIT Press.
- Houlgate, S. (1986). *Hegel, Nietzsche and the Criticism of Metaphysics*. Cambridge: Cambridge University Press.
- . (2006). *The Opening of Hegel's Logic: From Being to Infinity*. West Lafayette, IN: Purdue University Press.
- Hume, D. (1978). *A Treatise of Human Nature*, ed. L.A. Selby-Bigge, 2nd edn. revised by P.H. Nidditch. Oxford: Clarendon Press.
- Hussain, N.J.Z. and N. Shah (2013). Meta-ethics and its Discontents: A Case Study of Korsgaard, in C. Bagnoli (ed.) *Constructivism in Ethics*. Cambridge: Cambridge University Press, 82–107.
- James, A. (2005). Constructing Justice for Existing Practice: Rawls and the Status Quo. *Philosophy and Public Affairs* 33 (3): 281–316.
- Kervégan, J.-F. (2018). *The Actual and the Rational: Hegel and Objective Spirit*. Chicago: University of Chicago Press.
- Knappik, F. (2016). Hegel's Essentialism: Natural Kinds and the Metaphysics of Explanation in Hegel's Theory of "the Concept." *European Journal of Philosophy* 24(4): 760–787.
- Korsgaard, C.M. (1996). *The Sources of Normativity*. Cambridge: Cambridge University Press.
- . (2008). *The Constitution of Agency*. Oxford: Oxford University Press.
- . (2009). *Self-Constitution: Agency, Identity, and Integrity*. Oxford: Oxford University Press.
- Kreines, J. (2015). *Reason in the World*. Oxford: Oxford University Press.
- Krijnen, C. (2019). The Idea of a Speculative Philosophy of Objective Spirit, in M.F. Bykova (ed.) *Hegel's Philosophy of Spirit: A Critical Guide*. Cambridge: Cambridge University Press, 127–146.
- Laitinen, A. (2016). Hegelian Constructivism in Ethical Theory? in I. Testa and L. Ruggiu (eds.) *"I that is We and We that is I." Perspectives on Contemporary Hegel: Social Ontology, Recognition, Naturalism, and the Critique of Kantian Constructivism*. Leiden: Brill, 127–146.
- LeBar, M. (2008). Aristotelian Constructivism. *Social Philosophy and Policy* 25(1): 182–213.
- Lenman, J. (2010). Humean Constructivism in Moral Theory, in R. Shafer-Landau (ed.) *Oxford Studies in Metaethics, Volume 5*. Oxford: Oxford University Press, 175–193.

- Lenman, J. and Y. Shemmer (eds.) (2012). *Constructivism in Practical Philosophy*. Oxford: Oxford University Press.
- Maker, W. (1994). *Philosophy without Foundations: Rethinking Hegel*. Albany, NY: State University of New York Press.
- Maliks, R. and J.K. Schaffer (eds.) (2017). *Moral and Political Conceptions of Human Rights*. Cambridge: Cambridge University Press.
- Mandle, J. (1997). Rousseauian Constructivism. *Journal of the History of Philosophy* 35(4): 545–562.
- McDowell, J. (1996). *Mind and World*, 2nd edn. Cambridge, MA: Harvard University Press.
- Mill, J.S. (1998). *Utilitarianism*, ed. R. Crisp. Oxford: Oxford University Press.
- Moland, L. (2011). Agency and Practical Identity: A Hegelian Response to Korsgaard. *Metaphilosophy* 42(4): 368–375.
- Moyar, D. (2011). *Hegel's Conscience*. New York: Oxford University Press.
- . (ed.) (2017). *The Oxford Handbook of Hegel*. New York: Oxford University Press.
- Neuhouser, F. (2000). *Foundations of Hegel's Social Theory: Actualizing Freedom*. Cambridge, MA: Harvard University Press.
- Nickel, J. (2019). Human Rights, in *The Stanford Encyclopedia of Philosophy* (Summer 2019 Edition), ed. E.N. Zalta. URL = <<https://plato.stanford.edu/archives/sum2019/entries/rights-human/>>.
- O'Neill, O. (1990). *Constructions of Reason: Explorations of Kant's Practical Philosophy*. Cambridge: Cambridge University Press.
- . (1996). *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*. Cambridge: Cambridge University Press.
- . (2015). *Constructing Authorities: Reason, Politics and Interpretation in Kant's Philosophy*. Cambridge: Cambridge University Press.
- Ostritsch, S. (2014). *Hegels Rechtsphilosophie als Metaethik*. Münster: Mentis.
- Peperzak, A. (2001). *Modern Freedom: Hegel's Legal, Moral and Political Philosophy*. Dordrecht: Kluwer Academic Publishers.
- Pinkard, T. (1988). *Hegel's Dialectic: The Explanation of Possibility*. Philadelphia: Temple University Press.
- . (2008). Hegelianism in the Twentieth Century, in D. Moran (ed.) *The Routledge Companion to Twentieth Century Philosophy*. London: Routledge, 118–148.
- . (2012). *Hegel's Naturalism: Mind, Nature, and the Final Ends of Life*. Oxford: Oxford University Press.
- Pippin, R.B. (1989). *Hegel's Idealism: The Satisfactions of Self-Consciousness*. Cambridge: Cambridge University Press.
- . (2008). *Hegel's Practical Philosophy: Rational Agency as Ethical Life*. Cambridge: Cambridge University Press.
- Pippin, R.B. and O. Höffe (eds.) (2004). *Hegel on Ethics and Politics*. Cambridge: Cambridge University Press.
- Plant, R. (1999). *Hegel*. New York: Routledge.
- Popper, K. (1945). *The Open Society and its Enemies*, Vols. I and II. London: Routledge.
- Rawls, J. (1974). The Independence of Moral Theory, reprinted in S. Freeman (ed.) (1999) *John Rawls: Collected Papers*. Cambridge, MA: Harvard University Press, 286–302.

- . (1980). Kantian Constructivism in Moral Theory, reprinted in S. Freeman (ed.) (1999) *John Rawls: Collected Papers*. Cambridge, MA: Harvard University Press, 303–358.
- . (1996). *Political Liberalism*, paperback edn. New York: Columbia University Press.
- . (1999). *The Law of Peoples*. Cambridge, MA: Harvard University Press.
- Redding, P. (2007). *Analytic Philosophy and the Return of Hegelian Thought*. Cambridge: Cambridge University Press.
- Rockmore, T. (2016). *German Idealism as Constructivism*. Chicago: University of Chicago Press.
- Rorty, R. (1990). *Objectivity, Relativism, and Truth*. Cambridge: Cambridge University Press.
- Rossi, E. and M. Sleat (2014). Realism in Normative Political Theory. *Philosophy Compass* 9(10): 689–701.
- Russell, B. (1945). *A History of Western Philosophy*. New York: Simon and Schuster.
- . (1959). *My Philosophical Development*. London: Allen and Unwin.
- Schafer, K. (2015). Realism and Constructivism in Kantian Metaethics 1: Realism and Constructivism in a Kantian Context. *Philosophy Compass* 10(10): 690–701.
- Sidgwick, H. (1981). *The Methods of Ethics*. Indianapolis, IN: Hackett.
- Silk, A. (2015). Nietzschean Constructivism: Ethics and Metaethics for All and None. *Inquiry* 58(3): 244–280.
- Stemplowska, Z. and A. Swift (2012). Ideal and Nonideal Theory, in D. Estlund (ed.) *The Oxford Handbook of Political Philosophy*. New York: Oxford University Press, 373–389.
- Stern, R. (1990). *Hegel, Kant and the Structure of the Object*. London: Routledge.
- . (1993). *G.W.F. Hegel: Critical Assessments*. London: Routledge.
- . (2011). *Understanding Moral Obligation: Kant, Hegel, Kierkegaard*. Cambridge: Cambridge University Press.
- Strawson, P.F. (1966). *The Bounds of Sense*. London: Methuen.
- Street, S. (2010). What is Constructivism in Ethics and Metaethics? *Philosophy Compass* 5(5): 363–384.
- . (2012). Coming to Terms with Contingency: Humean Constructivism about Practical Reason, in J. Lenman and Y. Shemmer (eds.) *Constructivism in Practical Philosophy*. Oxford: Oxford University Press, 40–59.
- Stueber, K.R. (2017). Smithian Constructivism: Elucidating the Reality of the Normative Domain, in K.R. Stueber and R. Debes (eds.) *Ethical Sentimentalism: New Perspectives*. Cambridge: Cambridge University Press, 261–284.
- Taylor, C. (1975). *Hegel*. Cambridge: Cambridge University Press.
- . (1979). *Hegel and Modern Society*. Cambridge: Cambridge University Press.
- Thompson, K. (2019). *Hegel's Theory of Normativity: The Systematic Foundations of the Philosophical Science of Right*. Evanston, IL: Northwestern University Press.
- Tiberius, V. (2012). Constructivism and Wise Judgment, in J. Lenman and Y. Shemmer (eds.) *Constructivism in Practical Philosophy*. Oxford: Oxford University Press, 195–212.
- Valentini, L. (2012). Ideal vs. Non-ideal Theory: A Conceptual Map. *Philosophy Compass* 7(9): 654–664.
- Walden, K. (2012). Laws of Nature, Laws of Freedom, and the Social Construction of Normativity, in R. Shafer-Landau (ed.) *Oxford Studies in Metaethics, Volume 7*. Oxford: Oxford University Press, 37–79.

- Westphal, K.R. (2007). Normative Constructivism: Hegel's Radical Social Philosophy. *SATS – Nordic Journal of Philosophy* 8(2): 7–41.
- . (2013). Natural Law, Social Contract and Moral Objectivity: Rousseau's Natural Law Constructivism. *Jurisprudence* 4(1): 48–75.
- . (2016). *How Hume and Kant Reconstruct Natural Law: Justifying Strict Objectivity without Debating Moral Realism*. Oxford: Oxford University Press.
- . (2017a). Hegel's Natural Law Constructivism: Progress in Principle and in Practice, in T. Brooks and S. Stein (eds.) *Hegel's Political Philosophy: On the Normative Significance of Method and System*. Oxford: Oxford University Press, 253–279.
- . (2017b). *Grounds of Pragmatic Realism: Hegel's Internal Critique and Reconstruction of Kant's Critical Philosophy*. Leiden: Brill.
- . (2020). *Hegel's Civic Republicanism: Integrating Natural Law with Kant's Moral Constructivism*. London: Routledge.
- Winfield, R.D. (1988). *Reason and Justice*. Albany, NY: State University of New York Press.
- . (1998). *The Just Family*. Albany, NY: State University of New York Press.
- . (2005). *The Just State: Rethinking Self-Government*. Amherst, NY: Humanity Books.
- Wood, A.W. (2014). *The Free Development of Each: Studies in Freedom, Right and Ethics in Classical German Philosophy*. Oxford: Oxford University Press.
- Yeomans, C. (2012). *Freedom and Reflection: Hegel and the Logic of Agency*. Oxford: Oxford University Press.
- . (2015). *The Expansion of Autonomy: Hegel's Pluralistic Philosophy of Action*. Oxford: Oxford University Press.
- Zuk, P.D. (2015). A Third Version of Constructivism: Rethinking Spinoza's Meta-ethics. *Philosophical Studies* 172(10): 2565–2574.

Section 1

Hegelian Ethics Between Constructivism and Realism



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1 Hegel's "Actualist" Idealism and the Modality of Practical Reason

Paul Redding

In a review article on Hegel's critique of Kant's formalism of the categorical imperative, Sally Sedgwick has stressed the need to look beyond those few passages in which Hegel explicitly attacks Kant's formulations of this moral law: such passages are simply "too vague and uninformative to support a reliable interpretation of [Hegel's] empty formalism critique" (Sedgwick 2011: 265). To gain a more adequate understanding of Hegel's position, she argues, we must look to his more general stance towards Kant's larger philosophical commitments in both theoretical and practical domains. Hegel's ultimate target, she notes, is Kant's account of human reason and its laws. Given the systematicity of the thought of both these philosophers, Sedgwick is surely right, but the question of Hegel's critique of Kant's account of human reason inevitably raises the further contentious question of the nature of Hegel's own metaphysics. Thus, it may be asked whether Hegel's criticisms of Kant's account of reason amounted to a radicalization of Kant's critique of metaphysics, or whether it was more a type of metaphysically driven rejoinder to it – a question that has divided Hegel scholars for decades.

In this chapter I want to explore the idea of Hegel's so-called "empty formalism" critique as being a consequence of his idealism understood as a version of a distinctive metaphysical, or perhaps *meta*-metaphysical, position that has been dubbed "modal actualism" and that was first applied to the New Zealand logician and philosopher Arthur Prior (Fine 2005: 133). Prior was an early opponent of a theory about the nature of modality made famous by David Lewis who, as had Leibniz in the seventeenth century, had given an interpretation of modal concepts in terms of an ontology of possible worlds (Lewis 1973: 1986). Whereas Prior and subsequent modal actualists took aim at the logic and ontology of Lewis's "possibilism," Hegel's analogous critique, I suggest, aimed at the possibilism of Leibniz and at Leibnizian elements in Kant. The basic ideas behind the view of Hegel as a modal actualist are not new and are implicit in the work of a now largely ignored Hegel interpreter from the 1950s, John N. Findlay. It was not a coincidence, I suggest, that Findlay had been a teacher of, and an important influence on, Arthur Prior, the

first *official* modal actualist. Nor was it a coincidence that Findlay himself had devoted considerable efforts to giving expression to a broadly Hegelian “axiological” moral theory which he opposed to an “ethics of rule” of which Kant was, it would seem, the paradigm.

I take the possibilism opposed by Prior and Findlay to comprise both logical and ontological aspects, with Leibniz and Lewis having endorsed *both*. Thus both Leibniz and Lewis had wanted to be realists about possibility: judgments about non-actual possibilities must be meaningful, and both thought that the meaningfulness of such judgments could be explained by invoking an ontology of possible worlds. Thus a judgment in the *actual* world will be understood as *necessarily* true if it holds in *all* possible worlds, while one will be held as *possibly* true if it holds in *some* possible worlds. And both were happy to accept this in the face of the strongly counterintuitive idea that the actual world is all there is, although not surprisingly, few have been willing to follow them in this regard. For example, in a letter to Leibniz in 1686, Antoine Arnauld had written: “[W]e imagine that before [God] willed to create the world he envisaged an infinity of possible things from which he chose some and rejected others: several possible Adams, each one with a large success of people and events, with which he has an intrinsic relation.” But Arnauld objects that he is

strongly inclined to think that they are chimeras that we make up for ourselves. . . . For my part I am convinced that, although we speak so much of these purely possible substances, we nevertheless never conceive of any of them except through the idea of one of those which God has created.

(Leibniz 1998: 104)

To think of some merely possible thing only “through the idea of one of those which God has created” is to hold that thought about the possible must rely on resources found in the actual. This too was the alternative embraced by Hegel and expressed clearly in his discussion of possibility in the section “*Wirklichkeit*,” or “Actuality,” with which the “Objective Logic” of the *Science of Logic* concludes. Moreover, it is not only manifest in Hegel’s critical attitude to Leibniz, and especially his logic; it is manifest also, I will argue, in what Hegel sees as the consequences of that logic in the doctrines of Kant.

In relation to Lewis, reactions have varied. Some have used this link to simply dismiss such modal talk as meaningless, while others have accepted the meaningfulness of modal talk but dismissed the appeal to possible worlds – that is, to the approach of “possible-world semantics” – as a way of accounting for such meaningfulness. Another stance has been that of Robert Stalnaker who, accepting the meaningfulness of modal talk and treating possible-world semantics as the best theory to account for it,

has attempted to free that approach from Lewis's metaphysics (Stalnaker 2012), providing another variety of "modal actualism." While Stalnaker affirms that the *actual* world, the world – within which we exist and to which we have cognitive access in empirical experience – *is* reality, he insists that the actual must be understood as somehow containing a plurality of alternative unrealized but possible states. This is broadly similar to the account of the relation of possibility to actuality given by Hegel in his discussion of *Wirklichkeit*, but the critiques of possibilism by actualists like Prior and Stalnaker are not restricted to its *ontological* dimension: they are also directed against its underlying logical features as well. So too, as I have argued elsewhere (Redding 2019a), Hegel's ontological considerations were matched by similarly *logical* ones in his account of the logic of modal judgments in the subjective logic.

In this chapter I want to fill out parts of this picture in relation to the project that Sedgwick described earlier, and present Hegel's critique of Kant's "empty formalism" as a consequence of his broader metaphysical stance. First, in section 1, I locate Findlay's approach to Hegel with respect to more recent debates, and in section 2, explore the features behind his reading of Hegel. In section 3 I examine Kant's approach to the modalities of possibility and necessity and introduce Hegel's critique, while in 4 and 5 I show the grounds of this critique in his criticism of the ultimacy of the laws of identity and contradiction – laws, I suggest, that are at the heart of the possibilist's conception of logic.

1. Hegel and the Issue of Metaphysics

A focus of recent debates over the nature of Hegel's stance towards metaphysics has been the metaphysically deflationary interpretations offered since the late 1980s by Robert B. Pippin and Terry Pinkard (e.g., Pippin 1989; Pinkard 1994). While traditionally Hegel had been regarded as having regressed to pre-Kantian metaphysical commitments of an extravagant theo-centric type, Pippin and Pinkard portrayed him as on the side of what Pippin (1997) described as "philosophical modernism." By this was broadly meant a type of secularized enlightenment culture of the type to which C.S. Peirce had appealed when describing a community in which opinions are settled or beliefs fixed by propositions found "agreeable to reason" rather than by habit or compulsion (Peirce 1992). This is not to say that such revisionist readings were new. From the beginning of the twentieth century can be found various attempts, like those of Dilthey and Lukács, to rehabilitate Hegel within a broadly modern context, and commonly these focused on the thought of the "young Hegel" of the Jena period which culminated in his *Phenomenology of Spirit*. In the early decades of the second half of the century, when the ideas of the later Wittgenstein had become influential within analytic circles, some interpreters saw parallels between Hegel's more historicist

approach to “ethical substance” [*Sittlichkeit*] in the *Phenomenology* and Wittgenstein’s doctrines of “language games” embedded in “forms of life” (see, for example, Lamb 1979). Again, usually such interpreters distinguished Hegel’s early approach to these issues from that of his “mature,” systematizing work, which seems to be the antithesis of the approach of the later Wittgenstein, while Pippin and Pinkard have been willing to embrace the *whole* of Hegel, systematic *Logic* and *Realphilosophie* included (e.g., Pinkard 2017; Pippin 2018).

Within the earlier Wittgenstein-influenced approaches, however, Findlay’s seems an exception in not being restricted to parts of Hegel’s oeuvre, and in the present circumstances there are distinct advantages, I believe, in re-examining his approach. One of these is that it provides a response to the critics of “deflationist” readings of Hegel’s metaphysics by showing Hegel as a “robustly” realist philosopher, as long as reality is *equated* with actuality. Findlay had been explicit concerning the way in which Hegel was *not* the extravagant metaphysician of tradition: “[T]here never has been a philosopher by whom the *Jenseitige*, the merely transcendent, has been more thoroughly ‘done away with’, more thoroughly shown to exist only *as revealed* in human experience” (Findlay 1958: 19). It was a similar resistance to the idea of a transcendent beyond, a *Jenseitige*, that made Prior so resistant to Lewis’s metaphysics. But, of course, denying the reality of *other worlds* in no sense impugns the reality of *this world*, the actual world, providing that one does not lose sight of the need to accommodate a place for possibility within the actual world. These issues had, I believe, been central to Findlay’s philosophy during a period in which such modal issues had been largely ignored.

Another advantage of Findlay’s work is that it provides at least hints about the deeper reasons behind Hegel’s critique of Kant’s empty formalism. In his own philosophy, Findlay labored on a “teleological” approach to value, inspired, he claimed, by the philosophies of Kant and Hegel, and which he opposed to the then dominant “metaethics” approaches of analytic philosophy. The result of this effort was his *Values and Intentions* (Findlay 1961). Specifically, he there opposed “the long predominance in philosophy of an *ethics of rule*, which sought to prescribe what it is proper for the individual to *do*, or bring about by his doing, rather than with what it is proper and desirable for him to aim at, or wish for, or prefer” (Findlay 1961: 20). Thus, to this ethics of rule he opposed an “axiological” or value-theoretic approach, the Hegelian dimensions of which are clear. The source of our value-pronouncements is to be sought for and tested “in the general ‘spirit’ or attitude of mind lying behind our varying value-determinations.” Moreover:

This “spirit” may, further, have a natural developmental history, through the customary, the legalistic, the impulsively libertarian, the personally conscientious, to a stage which brings out its implications

adequately, and which is best accommodated to it. . . . Of all thinkers on ethical questions the idealists alone have shown explanatory mastery over the detail of our value-pronouncements: others may have developed this detail more brilliantly, but they alone have rendered it intelligible. And it would seem that their success was due to *subjective* foundations of their explanations, though this lay rather in a universal rather than an empirical subjectivity.

(Findlay 1961: 24–25)

While it is clear here that a Kantian ethics of rule is being criticized, Hegel's position is nevertheless clearly regarded as a type of extension of Kant's: "We must attempt something in the nature of a 'transcendental deduction' of our varying ethical slants of mind, without falling into the many muddled absurdities of Kant's mighty performance" (Findlay 1961: 24). Implicit in Findlay's project is thus another, more Hegel-friendly, reading of the possibilities residing within Kant's practical philosophy, and in this Findlay might be seen as engaging with the views of two different groups: on the one hand, post-Kantian interpreters of Hegel like Pippin and Pinkard, and on the other, those interpreters of Kant who have looked to resources beyond the *Critique of Practical Reason* and the *Groundwork for the Metaphysics of Morals* for some broader Kantian "moral anthropology."¹ To keep the task manageable here, however, I will ignore the suggestive approaches to any "impure" Kantian ethics (Louden 2000) with which those of the latter group have aimed to construct a less "formal" version of Kant's practical philosophy. Even if the "possibilist" Kant to which Hegel's critique is directed is not "the whole Kant," there is still value, I suggest, in becoming as clear as possible as to the features of the "empty formalist" position at which Hegel's critique was directed.

2. Findlay's Hegel in the Context of Logic in the Twentieth Century

Findlay's interpretation of Hegel has standardly been regarded as resulting from an application to Hegel of ideas taken from the later Wittgenstein, but a deeper and broader set of influences from the first half of the twentieth century inform Findlay's reading, a sketch of which will be relevant for establishing the link between the interpretation of Hegel as modal actualist and the spirit of Findlay's Hegelian critique of the "muddled absurdities" of Kant's "ethics of rule."

In the early years of the century, Bertrand Russell had dismissed Hegel for allegedly basing his metaphysics on an outdated logic – the traditional syllogistic logic of Aristotle – which, he claimed, had been made redundant by the type of "classical" mathematical logic originating in the work of Gottlob Frege and that had issued in the game-changing *Principia*

Mathematica that Russell had coauthored with Whitehead.² However, even in these early years, a counter-movement consisting of “non-classical” alternatives to Russell’s new logic was emerging, and many of these alternatives had a distinctly idealist ancestry. Almost immediately after the publication of *Principia* C.I. Lewis criticized Russell’s extensionalist conception of material implication as inadequate to capture the *necessity* implicit in the very notion of implication itself (Lewis 1912, 1914), and went on to develop *modal logic* – specifically, the “alethic” modal logic of necessary and possible propositions – to accommodate the necessity needed for the notion of implication (Lewis and Langford 1932). Modal logic would attract more and more advocates and undergo an unprecedented expansion in scope after technical developments in the 1950s and 1960s, and this would prompt a reengagement with an array of metaphysical issues that had been pronounced dead and buried by the earlier generation.³ Perhaps the most obvious of these was the “modal realist” metaphysics espoused by David Lewis, but in reaction to Lewis, others embraced a version of the Aristotelianism that Russell had denounced in Hegel. Hegel is rarely discussed in this context, but the specter of Hegel, I suggest, can be found lurking as an unnoticed presence in this post-positivistic rejuvenation of metaphysics.⁴

C.I. Lewis had insisted that the intensionalist approach to logic that he opposed to Russell’s extensionalism had an idealist provenance, dating back to Leibniz (Lewis 1930). This distinction, first invoked by the Port Royal logicians, has been interpreted in various ways, but basically a concept’s “intension” is its “content” understood in some mind-related way while its “extension” is the array of mind-independent objects to which the concept applies. Moreover, in his early work Lewis embraced a type of idealism, having been deeply influenced by his teacher, the American “Absolute Idealist” Josiah Royce, who had developed a form of formal logic influenced by C.S. Peirce (Royce 1951).⁵ The association of modal logic with Hegelianism does not end with Clarence Lewis, however.

In the 1950s and 1960s, the modal logic he had introduced underwent extensive development when Saul Kripke brought to the semantics of modal logic the idea of “quantification” that had been introduced by Frege into forms of logic that were initially understood in non-modal ways (Kripke 1959, 1963). This was done by extending the range of universal and existential quantifiers from the actual world to other “possible worlds.” In short, in relation to classical *non-modal* logic, the “domain” of objects to which the quantifiers were applied was relatively straightforward – they were existing, i.e., *actual*, objects. But what sense is to be made of talking of quantifying over non-actual, *possible* objects? Strictly, the innovation introduced by Kripke was mathematical and left the question of its philosophical interpretation open. David Lewis, however, made this a metaphysical issue by embracing a highly counterintuitive ontology that, he thought, best fitted possible-world semantics. Other *possible* worlds were as real as the *actual world*.

Against skeptics, Lewis argued that to think of the actual world as somehow metaphysically privileged was like thinking of one's *temporal* location, one's "now," as a metaphysically privileged *time*: *other possible worlds* and their occupants are no less real than *other times and their occupants* (D. Lewis 1973: 86). In making this analogy, Lewis was drawing on parallels between so-called "tense logic," the logic of relations among explicitly *tensed* judgments, developed in the 1950s by Arthur Prior (Prior 1957, 1967; Copeland 2002), and the "alethic" modal logic of necessity and possibility. Tense logic was one of a variety of new "modal logics" that, alongside deontic, doxastic, epistemic logics and others, was added to alethic modal logic around this time, and Prior objected to the "Platonic" metaphysics implicit in Lewis's treatment of *both* possibility and time. Modal logics are now generally recognized as linked by the fact that modal statements are *contextual* (Blackburn et al. 2001), a feature perhaps most obvious in the sentences of tense logic in which all temporal reference seems centered on the speaker's *present*. In *alethic* modal logic, all references to other possible worlds can similarly be understood as being made *from* the actual world – that is, *our* world – which is the world in which sentences can be regarded as necessarily or possibly true. For *presentist* interpreters of tense logic, or *actualist* interpreters of alethic modal logic, this indexicality or context sensitivity cannot be eliminated by these sentences being translated into a more "objective" form. In relation to these issues, Prior was open about the influence of a paper on the nature of time by his earlier teacher – John Findlay (Prior 1967: 1; Findlay 1941).

Findlay's book from the 1950s, *Hegel: A Reinterpretation*, written as an introductory text for a course on Hegel at King's College London, is usually described in terms of its having brought to Hegel the philosophy of the later Wittgenstein, and Findlay later acknowledged what he took to be Wittgenstein's excessive influence on it.⁶ Findlay's relationship to Wittgenstein was, however, complex and changing, and it is clear that Wittgenstein was far from being the only source of inspiration for his reading of Hegel in the 1950s. Findlay's first philosophical interest had been in the idealism of Fichte and Hegel: Hegel's *Encyclopaedia Logic* had been one of the first philosophical texts he had read, and Hegel "like the moon," he later wrote, had "followed him through all his philosophical wanderings, always having been seen at the end of every changing philosophical vista" (Findlay 1985b: 55). Thus, when he arrived at Oxford in the 1920s as a postgraduate student Findlay was already committed to a form of idealism (Findlay 1985a: 13). But disillusioned by the version of idealism he found there, he soon became attracted to the Cambridge philosophy of Russell and Moore (Findlay 1985a: 18), and, a little later, to Wittgenstein's *Tractatus* (1985b: 55). His passage through these "objectivistic" forms of philosophy would have crucial effects on the type of idealism to which he eventually returned and that went into his "reinterpretation" of Hegel in particular.

Significantly, Findlay's attraction to "Cambridge" philosophy was more to the, by then abandoned, *conceptual realist* phase of Russell and Moore, adopted after their turn from British idealism, and via this work Findlay was led to the work of the Austrian "object theorist" Alexius Meinong as well as the phenomenologist Edmund Husserl (Findlay 1985a: 20). In the early 1930s Findlay would complete a PhD on Meinong at the University of Graz, under the supervision of the Meinongian logician Ernst Mally. In his PhD (published as Findlay 1933), especially in light of additions added to its later republication (1963c), it is relatively easy to see Hegel as the philosopher waiting for Findlay at the end of a growing disillusion with Meinong's idea of a transcendent ontological realm – an "*Aussersein*" – *outside of being*. However, Findlay wanted to hold onto what he took to be the many insights, especially in relation to the objectivity of value judgments, enabled by Meinong's metaphysics. Findlay's supervisor, Mally, was particularly significant in relation to any convergence between Findlay's logical interests and his attraction to Hegel. Mally had published a "deontic logic" in the 1920s (Mally 1926), decades before interest in this form of modal logic was to gather steam in the 1950s, but equally importantly, in Mally's logic Findlay had found a way of rejecting Meinong's transcendent "beyond" by means of a reduction of what in Meinong was an *ontological* distinction between actual and possible objects to a *logical* one between two different types of predication, one relevant to talk about actualities, the other to talk about possibilities. Familiar as he was with Hegel's *Logic*, Findlay would have surely appreciated the parallel between Mally's two forms of predication (Findlay 1933: 282–284) and two forms systematically distinguished by Hegel in his Subjective Logic – what Hegel distinguished as the *inherence* of the predicate in the subject and the *subsumption* of the subject by the predicate (Hegel 2010a: 555; Redding 2018).

It was Hegel as a modal actualist, I suggest, who had been waiting for him at the end of this philosophical journey through the bizarre worlds of Alexius Meinong – and in Hegel, in contrast to the more subjectivist Fichte, Findlay found a way to develop the approach to value he had found in Meinong without Meinong's counterintuitive metaphysics. In short, in Findlay's later version of Hegel as an anti-Meinongian *this-worldly* thinker, with commitments to the *actual world* understood as modally enriched, one might recognize the "modal actualism" that his student Prior directed against the somewhat *Meinongian* thought of David Lewis.⁷

3. Kant as Transcendental Possibilist in Theoretical Philosophy, and "Moral Monadologist" in Practical Philosophy

It would seem that the current philosophical meaning of the term "modality" is of comparatively recent origin. In the Middle Ages, "mode"

was used to refer to a *nonessential* state of some substance, but by the eighteenth century it was being used primarily of a *judgment*, specifically in relation to whether or not the judgment was in the "mode" of necessity, actuality, or possibility (Hartmann 2013: 7). It is in this "de dicto" sense of specifying the *way* in which the judgment is *true* – that is, whether it is true, *necessarily*, *actually*, or *possibly* – that modality is discussed as the fourth of the categories applying to judgments in the Metaphysical Deduction in Kant's *Critique of Pure Reason*. Thus, Kant writes that in contrast to the contributions of the other three categories, quantity, quality, and relation, the modality of necessity, possibility, and actuality "contributes nothing to the content of the judgment," but "concerns only the value of the copula in relation to thinking in general" (Kant 1998: A74/B100). That is, what *is being qualified as* necessary, possible, or actual is the entire *content* – the "dictum," or what is said in the judgment itself – and not some particular component of it. That is, modality no longer pertains to the thing "res" referred to by the judgment's subject term.⁸

Indeed, at a more general level, the *de dicto* approach to modality would seem to follow from Kant's *de dicto* approach to discursive *judgment* more generally, as reflected in his critique of the subject-predicate analysis of judgment as "the representation of a relation between two concepts." With this Kant was criticizing the traditional Aristotelian conception of a judgment as a matter of predicating a general concept of some existent *thing* – a conception of judgment that is more "de re" than "de dicto." Kant criticizes the traditional view for its failure to ask "wherein this relation [i.e., between subject and predicate] consists" (Kant 1998: B140–141), and his own answer was to invoke the doctrine of the *transcendental unity of apperception*. For example, the two component concepts of a judgment "Bodies are heavy" will belong together only "in virtue of the necessary unity of the apperception in the synthesis of intuitions, i.e., in accordance with principles. . . [that] are all derived from the principle of the transcendental unity of apperception" (B142). That empirical judgments are to be unified through their being held to be true by an "I that thinks" strongly suggests a view of judgments as having a basically *de dicto* form, such that the unity existing among them will be that of their *consistency*, and in this way the unity of the judging subject for Kant is tied to the consistency supposed to exist among the judgments endorsed.⁹ Such a picture of judgments as *acts* directed to abstract objective "propositions" thought of as truth-bearers would become explicit only after Kant with the development of the modern notion of the proposition as the proper content of "propositional attitudes" (Sundholm 2009). Nevertheless, it is tempting to spell out the transcendental unity of apperception in this way: in fact, such a conception of judgment with properly propositional content was explicitly criticized by Hegel in the context of his criticism of the logic of Leibniz, and it is tied to the "empty formalism" of which he is critical in Kant.

That Leibniz and his followers provided Kant with targets in his discussion of modal notions in the *Transcendental Analytic* is not surprising. For Leibniz, what defined a thing's possibility was the absence of contradiction in its concept, but Leibniz had drawn *ontological* consequences from this idea in his "possibilist" ontological doctrine of the plurality of cognizable possible worlds. For Leibniz, the actual world is the one that God had chosen to actualize, and it was important that the range of options given to God from which he would choose was independent of his will. This range of options was entirely determined by the objectivity of the law of noncontradiction, and with this he stood in direct opposition to the more voluntarist approaches of Descartes and Arnauld, for whom it was an affront to God's omnipotence to suggest that there were laws, such as the laws of logic, that could not be bent to God's will.

Kant was, of course, critical of this metaphysical notion as an object of theoretical knowledge – critical of the idea that knowledge of any metaphysical reality, such as Leibniz's infinity of real *possibilia*, arranged together with compossible objects into an infinity of distinct possible worlds, could be derived from a logical law. But Kant's position in relation to Leibniz is complex, as he had manifestly different accounts of what content can be derived from logical laws in relation to theoretical knowledge on the one hand and practical knowledge on the other.

In *theoretical* philosophy, Kant, as Béatrice Longuenesse points out, had gone "from an ontological to a transcendental definition of the possible, in which an object is deemed possible only if it is an object of possible experience" (Longuenesse 1998: 148). That is, from the perspective of the transcendental analytic, possibility essentially has become *epistemic* – possibilist talk is limited to the context of the opinions of individual finite subjects who do not, as yet, have the epistemic benefits of a properly universalized experience. Hypotheses, then, must be limited to the empirical realm. A doctor may treat a presenting case as *possibly* a case of consumption, but the "possibility" involved exists simply in relation to the doctor's ignorance.¹⁰ In truth, the condition simply is or is not a case of consumption. In fact, from the point of view of those objectively justified judgments of a world of "appearance," Kant seems essentially to be a *necessitarian* – there is no realm of *real possibility* beyond the actuality of that given in universal experience. The empirical world as knowable must therefore be for Kant a "morality-free zone."

However, this has to be compatible with a *practical* philosophy in which Kant's position was closer to Leibniz's *affirmation* of real possibilities. In his precritical work, Kant had pursued a "physical monadology," and one might think his transcendental turn as narrowing the monadological aspects of his thought to a type of "moral monadology" (Redding 2009: chs. 3, 5). Thus, consider Kant's position in relation to knowledge of the *possibility* of the existence of God that can be derived from the fact that the concept of God contains no self-contradiction. From a theoretical

perspective, God's existence, seeing he is not a spatiotemporal object of possible experience, cannot be proved by theoretical means,¹¹ but this does not thereby rule out God from consideration within *practical philosophy*. There, the existence of God as a *postulate of pure practical reason* can be derived from the objectivity of the categorical imperative (Kant 1997: 5.124-132). However, within Kant's practical philosophy, perhaps the most obvious parallel with Leibniz's logical derivation of knowable *possible objects* is with Kant's purely logical derivation of the categorical imperative itself.

In *Groundwork of the Metaphysics of Morals*, Kant establishes the possibility of a categorical imperative in relation to that of a hypothetical imperative. For the hypothetical imperative, it can be said of a rational agent that if he wills some end he, in order to avoid contradiction, must thereby will the "indispensably necessary means to it that is in his power" (Kant 2012: 4.417). The concept of a *categorical* imperative is, however, as the name implies, *unconditioned*, and

since the imperative contains, beyond the law, only the necessity that the maxim be in conformity with this law, while the law contains no condition to which it would be limited, nothing is left with which the maxim of action is to conform but the universality of a law as such.

(Kant 2012: 4.420-1)

If it is obligatory that an agent acts in a way that is in conformity with the categorical imperative, then there must be a *real* possibility that she acts in that way: for Kant, "ought" implies "can" (Kant 1996: 6:50). Thus, here Kant's attitude to real possibility is similar to Leibniz's and is motivated by the same need to conceive of action as free. Kant's skepticism concerning the unknowability of this underlying metaphysical reality is entirely compatible with there being a definite way this reality must be, despite *that* its being that way is occluded from our theoretical comprehension.

Such a commitment to the metaphysical reality of non-actual possibilities may seem to contradict what Kant says in *Critique of Judgment* in the context of his well-known discussion of the idea of an "intuitive intellect" in §§ 76-77. Kant notes that while it is "absolutely necessary for the human understanding to distinguish between the possibility and the actuality of things," were our understanding *intuitive* rather than discursive or conceptual "it would have no objects except what is actual. . . . Thus the distinction of possible from actual things is one that is merely subjectively valid for human understanding" (Kant 1987: § 76, 5:401-2). The difficulty, however, is that of what "actual" could mean from the point of view of an intellect for which there were no modal distinctions like that between actuality and possibility.¹² And if an intuitive intellect could make no sense of the distinction, its being indispensable and necessary *for us* means that we can make no sense of its *absence*: what exists

for the intuitive intellect cannot be what *we* call actuality. It is difficult to see a way around the conclusion that *we* must think of reality as it would be immediately grasped by the intuitive intellect as encompassing a realm “beyond” the actual, a “beyond” conceived as containing non-actualized possibilities.¹³

Famously, Hegel would, first in his early *Natural Law* essay (Hegel 1975) and later in the *Philosophy of Right*, object to the “empty formalism” of Kant’s practical thought. As he puts it in *Philosophy of Right*, in abstracting from all concrete particular content, this abstract universalizing leaves the will with an entirely indeterminate content, thus reducing “moral science to an empty rhetoric of *duty for duty’s sake*” (Hegel 1991: §135 remark). Hegel takes aim at the first of Kant’s three formulations of the categorical imperative in the *Groundwork for the Metaphysics of Morals*, that which is commonly described as the “Formula of Universal Law” – “*act only in accordance with that maxim through which you can at the same time will that it become a universal law*” (Kant 2012: 4:421). In response, Hegel declares that the attempt to determine duty as “*absence of contradiction, as formal correspondence with itself* . . . is no different from the specification of *abstract indeterminacy*.” The emptiness of such a formal approach, he goes on, requires Kant to bring in “*material from the outside* and thereby arrive at *particular duties*, but it is impossible to make this transition to particular duties” from the abstractly formal starting point (Hegel 1991: §135 remark).

Many Kantians have objected here that Hegel’s criticism rests on a crude misunderstanding.¹⁴ The categorical imperative is clearly not meant to be understood as providing some sort of algorithm capable of instructing an agent *how* to act morally. Rather, it is supposed to work as a higher-level rule that can be applied to what Kant calls a “maxim,” a “subjective principle of volition” that “contains the practical rule determined by reason conformably with the conditions of the subject (often his ignorance or also his inclinations), and is therefore the principle in accordance with which the subject *acts*.” While a maxim is equivalent to a *hypothetical* imperative, Kant insists that *qua* subjective principle it must be contrasted with the “*objective principle*” which is “valid for every rational being, and the principle in accordance with which he *ought to act*, i.e., an imperative” (Kant 2012: 4:421 n.).

Were one to focus only on Hegel’s specific remarks here, there might seem to be truth in this rejoinder. Kant’s argument is hardly grounded in the “law of contradiction” in some straightforward logical sense. To take one of Kant’s examples, concerning a person who abides by the maxim “when I believe myself to be in need of money I shall borrow money and promise to repay it, even though I know that this will never happen” (Kant 2012: 4:423), Kant asks, could this maxim be willed as a universal law? The answer he gives is “no”: were it to be a universal law “it would make the promise and the end one might have in it itself impossible,

since no one would believe what was promised him but would laugh at all such expressions as vain pretences." It is therefore contradictory to will simultaneously the specific maxim and its universalized form, but whatever the logical structure this complex object of practical intentionality is meant to convey, this situation seems hardly akin to, say, believing (or willing) something to be a *round square*. It is not obvious exactly how this situation is meant to be linked to the classical law of noncontradiction, and this fact signals the peculiarity of modal logics.

Modal logics are distinctive in that their axioms can be understood as relating various modal judgments in particular ways, and there is an obvious distinction between the normative "deontic" logic of action intention relevant to Kant's argument and alethic modal logic. While for the latter, the judgment that *p* is necessarily the case implies that *p* is (actually) the case, this pattern does not hold for the deontic equivalent of *necessarily p*. That an agent is *obliged* to act in such and such a way does not, of course, imply that that agent actually *does* act in that way. Kant makes this point very clear: we know with certainty what *ought* to happen "even if there never have been actions arising from such pure sources" (Kant 2012: 4.407–8). An empirical source for the derivation of the moral law has been ruled out by the doctrine of the transcendental analytic of the *Critique of Pure Reason*, so the only way to save the moral law can be to derive it from purely rational considerations.

When we consider Hegel's objections from the point of view of taking his idealism to be a form of modal *actualism*, we might gain a different perspective on Hegel's specific criticisms of Kant. As an *actualist*, Hegel, we might expect, will think that any categorical imperative, specifying *necessities* and *possibilities* for acting in certain ways, must rely on knowledge of such ways of acting. Expressed in another way, in order for the moral law to acquire contents, it will not be sufficient that categorical imperatives subsume some more particular conceptually articulated "maxims," in the way that a minor premise in a syllogism is subsumed under the major, as assumed by Kant. Rather, those maxims themselves in order to have content must be able to be found *actualized* within a community's *Sittlichkeit* – its normative patterns of customary action. In short, Hegel criticizes Kant for clinging onto "the merely moral point of view without making the transition to the concept of *Sittlichkeit*," because Hegel, *qua* actualist, believes that for a moral concept to have determinate content it must *rely upon* the actuality of its realization within *Sittlichkeit*. For the actualist, the semantic resources for understanding the possible must be grounded in the actual. Without such a link to the actual world, "duty" could *only* be a matter of "duty for duty's sake." Next, I attempt to fill out more of the general shape of this critique, starting from the implications that Hegel's actualist stance in logic holds for the status of the law of noncontradiction.

4. The Laws of Identity and Noncontradiction as at the Logical Heart of Possibilism

As we have seen, Kant's use of the idea of contradiction in deriving the moral law has more to do with the impossibility of a single subject's entertaining incompatible practical intentions – willing a particular maxim and willing that it hold as a universal law – than with what we normally think of as the law of noncontradiction. But a direct link between a non-contradictory intentional *subject* and the elimination of contradictory relations among that subject's *beliefs* – an elimination of contradiction that can be thought as extendable to the totality of that subject's *practical intentions* – is already manifest in Kant's conception of the transcendental unity of apperception in the first *Critique*. That it is ultimately the *subject* that cannot be the bearer of contradiction had been made manifest in Fichte's *Wissenschaftslehre*, where the law of identity, $A=A$, had been grounded in the self-identity of the *subject*, $I=I$ (Fichte 1982: Part 1, § 1). And as the Fichtean subject exists *in its* act, rather than as a substance, the demand for being non-self-contradictory must be a demand *on* its acts. But the shift to a “self-positing” subject in Fichte had not altered the underlying logic that ties the identity of such a universal subject to the consistency of the propositions thought of as the contents of that subject's intentions.

In the *Science of Logic's* Doctrine of Essence, Section 1, “Essences as Reflection Within,” and particularly in its chapter II, “The essentialities or the determinations of reflection,”¹⁵ Hegel discusses the category of essence as it figures in Kant's “reflective” thought, taking aim at the purported universal laws of thought. As a determination of reflection, essence is first described as “simple self-reference, pure *identity*,” and in a remark, he adds that the determinations of reflection “have customarily been singled out in the *form of propositions* [*Form von Sätzen*] which were said to *apply to everything* . . . to have the status of *universal laws of thought* that lie at the base of all thinking . . . immediately and indisputably recognized and accepted as true by all thought upon grasping their meaning” (Hegel 2010a: 354; II.259). These laws have positive and negative forms – the principles of identity and noncontradiction – which Hegel will famously refuse to endorse as ultimate principles.¹⁶

Hegel distinguishes a proposition, *Satz*, from a judgment, *Urteil*, “because the former is constituted by the content of the relation [*der Inhalt die Beziehung*], or is a determinate relation [*bestimmte Beziehung*]. Judgment, on the contrary, converts the content into a predicate which is a universal determinateness by itself, distinct from its connection which is the simple copula” (Hegel 2010a: 355, II.259, translation altered). Hegel's distinction between judgment and proposition effectively parallels Kant's distinction between a *judgment* understood within the framework of *general logic*, as a “representation of a relation between two

concepts," and what is understood within the framework of *transcendental logic* as an abstract truth-bearing entity – the "*Inhalt*" or content that *explains* the relation between the two concepts of the general logic. Such a *Satz* is, as suggested earlier, the type of abstract object now thought of as the "propositional content" of intentional attitudes such as believing or wishing.¹⁷

In opening up this new *transcendental* dimension of logic, Kant had thus treated judgments as traditionally conceived as transformable into propositions, but Hegel suggests that such a transformation also works in the reverse direction: "Whenever a proposition is to be transformed [*verwandelt werden soll*] into a judgment, the determinate content – if, for instance, it resides in a verb – is transformed into a participle in order in this way to separate the determination itself from its connection with a subject" (Hegel 2010a: 355, II.259). Indeed, Leibniz himself had allowed a two-way type of translation between such forms, and Hegel exploits this capacity to transform propositions into judgments and judgments into propositions in his later account of judgment, in which he distinguishes two types of predication – predication as the "inherence" of a sensuously determinate predicate in concrete subject on the one hand, and as the "subsumption" of an abstractly conceived subject under an abstractly universal predicate on the other. Here he adds: "Only, when they [propositions] are enunciated as universal laws of thought, they are in need of a subject of their connection, and this subject is the *everything*, or an *A* which equally means 'all being' and 'each being'" (Hegel 2010a: 355, II.259).

In abstraction from his later account of judgment in the Subjective Logic, it is difficult to make much from these highly condensed passages, but from the last sentence quoted it would seem that these issues importantly bear on Kant's ambiguous attitude towards the Leibnizian attempt to derive substantive ontological consequences from logical laws. Leibniz had believed that the combination of the laws of noncontradiction and the principle of sufficient reason provided a type of Platonic ladder with which an individual finite "located" subject could *in principle* ascend, approaching but never reaching the terminus of a "God's-eye view" – a view of those *objective possibilities* from which God had chosen the actual world. The "universal characteristic" he had introduced into the traditional syllogism was thought of as enabling this stepwise ascent by providing a language within which "clear and confused" Aristotelian *de re* judgments could be translated into "clear and distinct" *de dicto* ones – a process referred to as "analysis." Kant had embraced such an "analytic" path to metaphysical truth in his precritical writings, but after the "transcendental turn" denied any metaphysical terminus to this process. Nevertheless, within the Transcendental Dialectic of the *Critique of Pure Reason*, a *transformed* version of Leibniz's analytic ladder persists in the doctrine of a "prosyllogistic" chain up which thought can ascend (Kant 1998: A330–332/B386–389). In this transformed version of the ladder, the ultimate

object of knowledge has been reduced to a “distributive unity” of propositions – an “*everything*, or an *A* which equally means ‘all being’ and ‘each being’” – that Hegel treats as in need of that grammatical subject that would transform Kant’s distributive unity into a collective one.

In Kant’s version of the chain or ladder, one moves from an empirical judgment about some fact to a judgment of the explanatory *conditions* of that fact, but Kant introduces an empiricist dimension at this point in that such conditions are now regarded hypothetically and so in need of empirical confirmation, as in the doctor’s hypothetical diagnosis. Nevertheless, the “conditions” question can be iterated as in Leibniz, allowing the question of the *conditions* of these conditions to be asked and thereby invoking the idea of some ultimate *unconditioned* that will terminate this ascending movement. In Kant’s version, unlike the lower conditions, the concept of this ultimate “everything” cannot be satisfied by any empirical givens – it is essentially a Platonic idea but now understood not in any “constitutive” way but only as *regulative*. Indeed, we find a similar use of this imagery of chained syllogisms in relation to Kant’s proof of the moral law in the *Groundwork of the Metaphysics of Morals*.

There, in Section II, he opens with a sustained critique of the idea that the moral law *could* be reached by some abstractive ascent from empirically given judgments. From the point of view of experience, it is *impossible* to distinguish actions that simply conform to duty from actions *done* from duty (Kant 2012: 4.407). Unlike the situation that holds in climbing the empirical ladder to systematic theoretical knowledge in Kant’s deflationary version of Leibniz, in the case of the categorical imperative “we do not have the advantage of the reality being given in experience,” in which case “the possibility would be necessary not to establish it” – as Leibniz had conceived – “but to explain it” (Kant 2012: 4.420). There is still a type of ladder, however, but it is one designed for *descending* from the agent’s immediate grasp of the moral law that can be applied to *conditioned maxims* in the way a major premise of a syllogism (also called a “rule”) can be applied to a minor premise (also called its “condition”) so as to produce a *conclusion* that can be acted upon. As we have seen, Hegel denies that Kant is able to achieve this final transition. Kant offers no way of getting on or off the ladder, and another way of thinking about the role of “reflection” is needed.¹⁸ We see such a radically altered conception of the role of reflection for thought manifest in Hegel’s treatment of the logic of action in his treatment of judgment.

5. An Axiological Ethics Rather Than an Ethics of Rule in Hegel’s Subjective Logic

In his treatment of judgments in the Subjective Logic Hegel derives a series of judgment forms by way of a reflection on the adequacy of each to the conception of “judgment” itself. The first form – the “positive

judgment of existence [*Dasein*] – is the simplest and least adequate of a series in which each new form is generated as a solution to problems of logical coherence in its predecessor. The initial judgment form will eventually come to be replaced by a “judgment of necessity,” a modal judgment about *kinds*, and it in turn will be replaced by the “judgment of the concept,” another modal judgment about the *evaluative* properties of specific human products or actions. This last judgment form is shown to expand into a “syllogism,” conforming to Hegel’s description of the syllogism as the “truth” of the judgment (Hegel 2010a: 593/12.95). As the initial “positive judgment of existence” was *itself* a “modal” judgment, akin to Prior’s *tensed judgments* (Redding 2018), Hegel’s “subjective logic” is fundamentally a modal one.

Modal judgments are, as noted earlier, contextual or “indexical” judgments. Thus, while the truth of the judgment of existence will be contextualized to the *time* of its utterance, that of the judgment of necessity will be contextualized to a world in which certain laws can be assumed to operate. In turn, the judgment of the concept will be contextualized to the determinate *Sittlichkeit* embodying distinct norms of evaluative judgment within a particular culture. We can take these as contexts within which “language games” of making, criticizing, and defending empirically based claims are typically played out, such that if interlocutors do not share certain presuppositions, then the resources for securing a rational resolution of these disputes will be lacking. It was the awareness of such limits that had motivated rationalists such as Leibniz and Kant to find a medium in which claims can be expressed so as to be free from such indexical and contextual factors – the motivation to reduce the contents of claims to “propositions” and the claimant to an abstract possessor of “propositional attitudes” – and this is the same motivation that is behind current attempts to translate all modal claims into their non-contextualized, non-modal equivalents.

As we have seen, actualists such as Findlay and Prior resisted the idea of a *completely* objective medium of abstract propositional contents into which contextualized judgments can be translated. Of course, at an individual level such translations are possible, as when one renders a sentence such as “There was an explosion ten minutes ago” into the form “There was an explosion at 4:43 p.m.” But, as Findlay argued, this should not lead us to believe that *all our beliefs* can be stripped of such indexical features (Findlay 1941: 233–234; Redding 2017), and in his account of judgment Hegel reveals himself as similarly resistant to the reduction of “judgments” to “propositions” in the Leibniz–Kant manner. It is true that in relation to each modal *de re* judgment form with its “inhering” predicate, there is generated by processes of negation some *de dicto* “reflective” non-modal equivalent with a “subsuming” predicate, but the role played by these reflective or “quantitative” judgment forms is not that of providing the definitively objective form of the contextual judgment of which

it is a transformation. Rather, such “reflective” or *de dicto* forms play a mediating role within a process in which the subject term of the initial *de re* judgment becomes *redetermined* into the more complexly determinate subject of a different, but still “de re” judgment form. Thus, while the subject of a judgment of existence will be a specific instance of a kind – a particular rose, say – the subject of the following judgment of necessity will be determined as the *kind itself* – the *genus* rose as in the judgment “the rose is a plant.”¹⁹

The most developed form in Hegel’s taxonomy, the judgment of the concept, is a judgment directed to specific actions or their products (*this* act or house judged as good or bad [Hegel 2010a: 583–587; 12.85–89]), and the expansion of such a judgment into a “syllogism” illustrates how the logical properties of such judgments are defined by the inferential relations to *other judgments* that can be offered as evidence for or against the judgment. Thus, a judgment such as “This act is good,” being met by its negation (“No, it is *bad*”) can be expanded in a way so as to make explicit the act’s *worthiness* for being evaluated in the way that it is – for example, “This act, *having such and such consequences*, is good.”

Thus Hegel’s schema brings reason to bear on action in a very different way to Kant’s conception of a motivating maxim being judged in relation to the categorical imperative. First, the primary object of assessment is *an actual action*, rather than some practical *intention*, and it is judged in terms of its worthiness or desirability *as* an action. Here, the primacy of actuality suggests *subjective* intentionality to be secondary: we might think of belonging to a society in which individuals evaluate each other’s actions as a condition of the capacity to evaluate one’s own anticipated action or “intention.” In this way, Hegel’s judgments of the concept more approximate Findlay’s characterization of moral judgments as about “what it is proper and desirable” for an agent “to aim at, or wish for, or prefer” (Findlay 1961: 20).²⁰ Being contextual, such modal judgments will be relative to what Kant refers to as “the conditions of the subject” that he sees limiting practical maxims or hypothetical imperatives. Kant, of course, insists that the grounds of such judgment be sought in factors *free* of all such conditions, hence the conditioned maxim must be subsumed under a syllogistic “rule” capable of testing the coherence of *all* conditioned imperatives, but as we have seen, this seems to commit him to the possibilist’s ontology of the reality of *merely possible* actions. In contrast, Hegel’s account of how reason bears on moral actions is closer to the way that Kant thinks of judgments as bearing on *aesthetic* phenomena in the *Critique of Judgment*. Forms of argument here will presuppose that certain suppositions are accepted by each party: in an aesthetic dispute about the value of the plays of Jones, there will be a background agreement about the plays of Shakespeare, or in a moral dispute about the action of Smith, there will be a background agreement about the actions of Hitler. Of course what count as exemplars of good and bad

can become objects for reassessment as in periods of aesthetic, moral, or even scientific "revolutionary" change, but Hegel thinks that, even across changes as great as that from classical to modern culture, a type of retrospective "thinking over" such change from the perspective of its outcome can, if the *right* logic is adhered to, reestablish a narrative of thought as on the path to truth.

In all this, there is preserved a role for Kantian reflection as a necessary condition for human thought and freedom, but reflection as occasioned by actual conflicts, both epistemic and practical, within and between concrete subjects belonging to and conditioned by natural and cultural realms. Negotiation of such conflicts must involve reflection on such conditioning, but that we can and do reflect on such conditions should not lead us to desire "to have in our language only those kinds of statement that are *not* dependent, as regards their truth or falsity, on any circumstance in which the statement happens to be made" (Findlay 1941: 233). To counter this hypostatization of reflection, Findlay looked to the development of modern modal logics that were not, like the classical logic of Russell, tied to what Hegel called the logic of "the understanding." He saw such new logics as relevant to the development of alternatives to the "ethics of rule," and as providing a context for a beneficial "reexamination" of the philosophy of Hegel.

Notes

1. I am grateful to the editors for pointing out how Kant's later *Metaphysics of Morals* might be read as addressing such Hegel-styled criticisms.
2. The type of quantified predicate logic originating with Frege in the late nineteenth century allowed for judgments with *many-placed* predicates and replaced the traditional subject-predicate conception of judgment to which Hegel had been uncritically attached. For the way the new logic was used to eliminate Hegel from consideration, see Redding (2007).
3. In terms of thinkers from the tradition, Aristotle seems to have been the most obvious beneficiary of this. See, for example, Tahko (2012). Russell's elimination of Hegel from consideration in matters logical had been so great that the fact that Hegel had been one of the few philosophers in the nineteenth century to advocate a modal logic was, for the most part, passed over in silence.
4. Another front in a Hegelian reaction to Russell's logically driven anti-Hegelianism is that deriving from the work of the American analytic philosopher Wilfrid Sellars and recently developed by Robert Brandom (2019) as an "inferentialist" approach to semantics that he has ascribed to Hegel.
5. Even when he turned to a more pragmatist form of philosophy, Lewis remained close to his early idealist phase. Such an association between Hegel's idealism and pragmatism is central to the work of Brandom.
6. A more helpful account of his understanding of the relevance of Hegel in relation to the logic of his own times can be found in Findlay (1956) and Findlay (1963a). Findlay's interest in contemporary logic is reflected in a paper on Gödel published in 1941 (Findlay 1963b: ch. 3).
7. For Findlay's way of reading Hegel in the context of such modal issues, see Redding (2017).

8. Kant's idea of modality as adding nothing to the *content* of a judgment is consistent with his more specific critique of the ontological argument, which relies on the "de re" modality pertaining to the essential properties of God. Existence (actuality) is not a predicate of a *thing* (Kant 1998: A598/B626).
9. This fundamentally de dicto view of such unified contents has been stressed by Robert Howell (1992: ch. 7).
10. See Kant's discussion of a doctor's hypothetical diagnosis in Kant (1998 A824/B852).
11. Compare this to Leibniz, who demands a proof of the *possibility* of God before allowing a proof such as the ontological proof.
12. This is a part of Hegel's critique of Kant's treatment of possibility in the *Encyclopaedia Logic* (Hegel 2010b: §§ 142–143).
13. For a very different interpretation of Kant's modal metaphysics, from a position more sympathetic to Kant, see Stang (2016). Stang addresses the issue of the intuitive intellect in ch. 10.
14. For synoptic accounts of such disputes, see Sedgwick (2012); Freyenhagen (2011).
15. A different presentation is given in *Encyclopaedia Logic*, which can be ignored for present purposes.
16. These "quantitative" determinations of reflection treat identities as "self-referring" such that they are abstracted from "the determinateness of others," but as always, Hegel can use this very lack of determination as signalling a higher-order determination. A category that is indeterminate by the fact that its content lacks a relation to some contrary can be thought of as determined *qua category* by a contrast with another category whose content is so determined.
17. As will become clear in his account of judgment in the Subjective Logic, the "proposition" is that into which an Aristotelian subject–predicate judgment is "analyzed" in Leibniz's universal characteristic, which allows the "clear but confused" judgments of experience to be rendered as "clear and distinct."
18. In Redding (2019b), I explore Hegel's counterimage to thought climbing and descending a ladder in which the thought process follows a circular path.
19. Having passed through the mediating "judgment of reflection," in which (to continue the rose example) singular, particular, and universal judgments quantify over *actual* roses, the judgment about the *genus* rose will now have built (or "reflected" or "aufgehoben") into its subject term concepts that reflect assumptions about the empirical properties that are *essential* to roses.
20. Elsewhere (Redding 2007: ch. 6) I have explored parallels between Hegel's analysis and a similar approach to moral judgment found in John McDowell.

References

- Blackburn, P., M. di Rijke and Y. Venema (2001). *Modal Logic*. Cambridge: Cambridge University Press.
- Brandom, R.B. (2019). *A Spirit of Trust: A Reading of Hegel's Phenomenology*. Cambridge, MA: Harvard University Press.
- Copeland, J. (2002). The Genesis of Possible Worlds Semantics. *Journal of Philosophical Logic* 31 (2): 99–137.

- Fichte, J.G. (1982). *The Science of Knowledge*, ed. and trans. P. Heath and J. Lachs. Cambridge: Cambridge University Press.
- Findlay, J.N. (1933). *Meinong's Theory of Objects*. Oxford: Oxford University Press. Expanded 2nd edn. as *Meinong's Theory of Objects and Values*. Oxford: Oxford University Press, 1963
- . (1941). Time: A Treatment of Some Puzzles. *Australasian Journal of Psychology and Philosophy* 19(3): 216–235, reprinted in Findlay (1963b: 39–56).
- . (1956). Some Merits of Hegelianism: The Presidential Address. *Proceedings of the Aristotelian Society* 56(1): 1–24.
- . (1958). *Hegel: A Re-examination*. London: Allen & Unwin.
- . (1961). *Values and Intentions: A Study in Value Intentions and Philosophy of Mind*. New York: Macmillan.
- . (1963a). The Contemporary Relevance of Hegel, in *Language, Mind and Value: Philosophical Essays*. London: George Allen & Unwin, 217–231.
- . (1963b). *Language Mind and Value*. London: George Allen & Unwin.
- . (1963c). *Meinong's Theory of Objects and Values*. Oxford: Oxford University Press.
- . (1985a). My Life: 1903–1973, in R.S. Cohen, R.M. Martin and M. Westphal (eds.) *Studies in the Philosophy of J. N. Findlay*. Albany, NY: State University of New York Press, 1–51.
- . (1985b). My Encounters with Wittgenstein, in R.S. Cohen, R.M. Martin and M. Westphal (eds.) *Studies in the Philosophy of J. N. Findlay*. Albany, NY: State University of New York Press, 52–69.
- Fine, K. (2005). *Modality and Tense: Philosophical Papers*. Oxford: Oxford University Press.
- Freyenhagen, F. (2011). Empty, Useless, and Dangerous? Recent Kantian Replies to the Empty Formalism Objection. *Bulletin of the Hegel Society of Great Britain* 63: 95–118.
- Hartmann, N. (2013). *Possibility and Actuality*, trans. A. Scott and S. Adair. Berlin: Walter de Gruyter.
- Hegel, G.W.F. (1975). *Natural Law: The Scientific Ways of Treating Natural Law, Its Place in Moral Philosophy, and Its Relation to the Positive Sciences of Law*, ed. H.B. Acton, trans. T.M. Knox. Philadelphia: University of Pennsylvania Press.
- . (1991). *Elements of the Philosophy of Right*, ed. A.W. Wood, trans. H.B. Nisbet. Cambridge: Cambridge University Press.
- . (2010a). *The Science of Logic*, ed. and trans. G. di Giovanni. Cambridge: Cambridge University Press.
- . (2010b). *Encyclopedia of the Philosophical Sciences in Basic Outline. Part 1: Science of Logic*, ed. and trans. K. Brinkmann and D.O. Dahlstrom. Cambridge: Cambridge University Press.
- Howell, R. (1992). *Kant's Transcendental Deduction: An Analysis of Main Themes in His Critical Philosophy*. Dordrecht: Kluwer.
- Kant, I. (1987). *Critique of Judgment*, trans. W.S. Pluhar. Indianapolis, IN: Hackett.
- . (1996). *Religion and Rational Theology*, ed. and trans. A.W. Wood and G. di Giovanni. Cambridge: Cambridge University Press.
- . (1997). *Critique of Practical Reason*, ed. and trans. M.J. Gregor. Cambridge: Cambridge University Press.

- . (1998). *Critique of Pure Reason*, ed. and trans. P. Guyer and A.W. Wood. Cambridge: Cambridge University Press.
- . (2012). *Groundwork of the Metaphysics of Morals*, revised edn., ed. and trans. M.J. Gregor and J. Timmermann. Cambridge: Cambridge University Press.
- Kripke, S. (1959). A Completeness Theory in Modal Logic. *Journal of Symbolic Logic* 24(1): 1–14.
- . (1963). Semantical Considerations on Modal Logic. *Acta Philosophica Fennica* 16: 83–94.
- Lamb, D. (1979). *Language and Perception in Hegel and Wittgenstein*. Amersham: Avebury.
- Leibniz, G. W. (1998). *Philosophical Texts*, ed. and trans. R.S. Woolhouse and R. Frank. Oxford: Oxford University Press.
- Lewis, C.I. (1912). Implication and the Algebra of Logic. *Mind* 21(84): 522–531.
- . (1914). Review of A.N. Whitehead and Bertrand Russell, *Principia Mathematica*. *Journal of Philosophy* 11: 497–502.
- . (1930). Logic and Pragmatism, in G.P. Adams and W.P. Montague (eds.) *Contemporary American Philosophy*, vol. 2. New York: Macmillan, 31–51.
- Lewis, C.I. and C.H. Langford (1932). *Symbolic Logic*. New York: Century.
- Lewis, D.K. (1973). *Counterfactuals*. Oxford: Blackwell.
- . (1986). *On the Plurality of Worlds*. Oxford: Blackwell.
- Longuenesse, B. (1998). *Kant and the Capacity to Judge: Sensibility and Discursivity in the Transcendental Analytic of the Critique of Pure Reason*. Princeton: Princeton University Press.
- Louden, R.B. (2000). *Kant's Impure Ethics: From Rational Beings to Human Beings*. Oxford: Oxford University Press.
- Mally, E. (1926). *Grundgesetze des Sollens. Elemente Der Logik des Willens*. Graz: Leuschner & Lubensky. Reprinted in E. Mally, *Logische Schriften. Großes Logikfragment – Grundgesetze des Sollens*, eds. K. Wolf and P. Weingartner. Dordrecht: Reidel, 1971, 227–324.
- Peirce, C.S. (1992). The Fixation of Belief, in N. Houser and C. Kloesel (eds.) *The Essential Peirce: Selected Philosophical Writings*, vol. 1 (1867–1891). Bloomington, IN: Indiana University Press, 109–123.
- Pinkard, T. (1994). *Hegel's Phenomenology: The Sociality of Reason*. Cambridge: Cambridge University Press.
- . (2017). *Does History Make Sense?: Hegel on the Historical Shapes of Justice*. Cambridge, MA: Harvard University Press.
- Pippin, R. B. (1989). *Hegel's Idealism: The Satisfactions of Self-Consciousness*. Cambridge: Cambridge University Press.
- . (1997). *Idealism as Modernism: Hegelian Variations*. Cambridge: Cambridge University Press.
- . (2018). *The Realm of Shadows: Logic as Metaphysics in The Science of Logic*. Chicago: University of Chicago Press.
- Prior, A. (1957). *Time and Modality*. Oxford: Clarendon Press.
- . (1967). *Past, Present and Future*. Oxford: Clarendon Press.
- Redding, P. (2007). *Analytic Philosophy and the Return of Hegelian Thought*. Cambridge: Cambridge University Press.
- . (2009). *Continental Idealism: Leibniz to Nietzsche*. London: Routledge.

- . (2017). Findlay's Hegel: Idealism as Modal Actualism. *Critical Horizons* 18(4): 359–377.
- . (2019a). Hegel's Treatment of Predication Considered in the Light of a Logic for the Actual World. *Hegel Bulletin* 40(1): 51–73.
- . (2019b). Putting the Cycle Back into Hegel's *Encyclopaedia*. *Hegel-Jahrbuch*.
- Royce, J. (1951). *Royce's Logical Essays: Collected Logical Essays of Josiah Royce*, ed. D.S. Robinson. Dubuque, IA: W.M.C. Brown Company.
- Sedgwick, S. (2011). Hegel on the Empty Formalism of Kant's Categorical Imperative, in S. Houlgate and M. Baur (eds.) *A Companion to Hegel*. Oxford: Wiley-Blackwell, 265–280.
- . (2012). *Hegel's Critique of Kant: From Dichotomy to Identity*. Oxford: Oxford University Press.
- Stalnaker, R. (2012). *Mere Possibilities*. Princeton: Princeton University Press.
- Stang, N.F. (2016). *Kant's Modal Metaphysics*. Oxford: Oxford University Press.
- Sundholm, G. (2009). A Century of Judgment and Inference, 1837–1936: Some Strands in the Development of Logic, in L. Haaparanta (ed.) *The Development of Modern Logic*. Oxford: Oxford University Press, 264–317.
- Tahko, T. (ed.). (2012). *Contemporary Aristotelian Metaphysics*. Cambridge: Cambridge University Press.

2 Choosing to Do the Right Thing

Aristotle, Kant, and Hegel on Practical Normativity and the Realism-Constructivism Debate

Sebastian Stein

“How, from a fire that never sinks
or sets,
would you escape?”

– Heraclitus

One major fault line of the current debate about practical normativity runs between the notions of constructivism and realism.¹ While there is no wide-ranging agreement about the notions’ relative strengths and weaknesses, a closer look at Hegel’s critiques of the hybrid accounts of Aristotle and Kant discloses a valuable vantage point from which to interpret the contemporary discussion.

From Hegel’s perspective, contemporary constructivism might be able to account for subjective self-determination but is beset with problems rooted in its inability to (1) define an adequate notion of normativity-guaranteeing universality, and (2) justify necessary normative content. This leads to the undermining of the very individual subjectivity that constructivism privileges. Meanwhile, realism privileges universality and content but fails to account for subjective self-determination. This failure can be shown to entail the undermining of the very universal content it privileges.

In the following pages, it will be argued that Aristotle and Kant were already concerned with varieties of these problems and attempted to avoid them. While Aristotle is frequently associated with realism and Kant with constructivism, both thinkers attempt to combine elements of both in hybrid accounts: Kant combines realist and constructivist strengths in a subjectivist manner, while Aristotle does so within an objectivist framework. However, against the thinkers’ intentions, this entails a subjectivist undermining of objectivity in the case of Kant and an objectivist undermining of subjectivity in the case of Aristotle.

Hegel’s “metaphysics of the concept”² is supposed to avoid this. It sets out to equally balance subjectivity and objectivity in a non-reductivist

manner within the speculative unity that Hegel calls the “concept of the will.” Within this concept, both moments define each other and irreducibly differ *in* being identical. By privileging neither moment, Hegel aims to preserve both. This interpretation contradicts recently popular readings that take Hegel to be a neo-Aristotelian, quasi-objectivist thinker³ (e.g., Pinkard 2012; McDowell 1996) as well as those that place Hegel in the Kantian tradition of transcendental or subjectivistic idealism. (e.g., Pippin 1989; Sedgwick 2012).

The chapter proceeds in four parts. In part 1, the notions of “constructivism” and “realism” are introduced, and the currently most influential forms of constructivism are criticized. This prepares the way for the second part’s description of Aristotle’s objectivism and Kant’s subjectivism. The final third part describes how Hegel sets out to avoid the weaknesses and unite the strengths of both subjectivist and objectivist approaches.

1. Realism and Constructivism

1.1 Realism

In the current debate about practical normativity, constructivist approaches have come to dominate the discussion (Schwartz 2017; Scanlon 2014; Rowland 2017; Bagnoli 2016), triggering realist worries in response (Finlay 2014; Huemer 2008; Clipsham 2013). In this context, “realism” is usually taken to mean that there exist normative properties, facts, entities, and so on – for example, in the form of an objective order of value with a determinate content – that are ontologically prior to or in some sense independent⁴ of finite, mind-possessing individuals. Such moral facts are immune to choice’s relativizing influence, and insofar as they can be known, they tell the individual what it objectively means “to do the right⁵ thing”: the individual is to adapt her or his choices and actions to the requirements of such facts.⁶

One central concern of realists is to ensure that practical normativity is non-relativistic in virtue of containing a necessary content in the form of moral facts. Adhering to this content means that the individual undertakes the determinate actions she or he *must* undertake to qualify as doing the right thing. To realists, heeding the demands of objective, moral facts validates subjective choice: choices are normatively sound because they live up to moral facts. “Doing the right thing” renders one’s choice rational.

This raises the general question about how moral facts and the choice-enabling individual minds can be compatible at all: if the facts exist independently of our minds, how and why can we know them (Bedke 2018)? It seems that if we cannot know them, there is no justifiable moral judgment and we would lay claim to knowledge about the unknowable: we would know about the very moral facts we claim we do not know about.

Furthermore, constructivists worry whether individuals are truly *free* when they choose to adhere to such facts. If they do not author these facts,

have no constructive part in their definition, and do not “give them to themselves” based on their own choice, do they depend on something external? Does acting rationally in the realist sense amount to autonomy-effacing dependence or even submission rather than emancipated self-determination? If so, does this undermine agents’ status as “subjects” or “individuals” altogether (see Stein 2018)? And without individual, self-determining agents, can there be something like a universal nature or divine will at all?

1.2 Constructivism

In response, constructivist thinkers maintain that in some basic manner, practical norms must be “owned,” “created,” or “constructed” by individual subjects to count as compatible with modern notions of freedom.⁷ Individuals author, choose, and define norms, thus “giving them to themselves.” In this act of “norm-legislation,” individual agents are unconditioned by external influences: nothing alien compels them when they define what it means “to do the right thing.”

While this enables constructivists to argue that individuals are independent from any presupposed order of value or given moral facts, nature, God’s will, and so on, it also raises the question of whether a defined set of determined, objective values can be *necessarily* connected to the notion of subjective choice. Defining “individual choice” as basic seems to amount to assuming individuality and its agency instead of deducing it from a more profound metaphysical principle. It also appears to entail that *any* course of action can be chosen: the notion of subjective choice does not imply what it is that must be chosen. Constructivism is thus accused of being naïve about individual agency and of relativizing the content of norms. Finally, realists may worry that if there is no “real” universal norm or content because constructivism’s individual willing is all there is, how can there be individual willing in the first place? By undermining universality, does individuality deprive itself of its own contrast and thus undermine itself? These criticisms also seem to apply to the most influential varieties of contemporary constructivism.

1.3 Contemporary Constructivisms

Korsgaard and O’Neill

The constructivists Christine Korsgaard and Onora O’Neill label their accounts “Kantian” (Korsgaard 2009: 38; O’Neill 1996: 52). And yet Immanuel Kant “transcendentally” deduces normative content from the notion of an always already existing relationship between a (1) universal and undetermined self-conscious subjectivity, and (2) objective content (Kant 1991: 49).⁸ This is to guarantee the content’s universal status.

In contrast, O'Neill and Korsgaard reject the transcendental method.⁹ Instead, they favor "formal" (Korsgaard 2009: 58) and "abstract" (O'Neill 1996: 48) accounts of practical reasoning (Korsgaard 2009: 2; O'Neill 1996: 55ff)¹⁰ and assume unified "self-determination," "individuality" (Korsgaard 2009: 7, 131), "autonomy," "free will" (O'Neill 2004: 42, 44), or "choice" (Korsgaard 2009: 1).¹¹

Korsgaard even refrains from deductively defining any determined normative content, leaving it to hypothetical reasoning subjects to decide on binding principles (Korsgaard 1996: 51). From Kant's perspective, this leaves her open to the charge of relativism: unless she defines the determinations that must rationally follow from the exercise of practical reason and which must be "reflectively endorsed" (Korsgaard 1996: 50), any determination could be endorsed. To avoid this charge, O'Neill argues that rational individuals have an assumed interest in universalizable action (O'Neill 1996: 166), rational exchange, mutual respect, avoidance of injury (O'Neill 1996: 59), fairness, toleration, fidelity, probity, truthfulness, honesty, self-respect, self-control, decisiveness, courage, endurance, insight and self-knowledge, efficiency, carefulness, accuracy (O'Neill 1996: 187ff), and so on, so any determined norm and institution compatible with these desiderata is deemed normatively valid.

However, this prompts the question why *these* particular and determined institutions and practices are singled out in the name of universality? While it is true that principles such as "severely injuring others" (O'Neill 1996: 59) mean that not all individuals can adopt them at pain of contradicting the principle "individuals should not be harmed," there seems to be nothing in the notion of individuality alone that necessitates the adoption of *this* determined principle. The idea that assumed individuals would not adopt principles that harm individuals does not follow from the notion of choosing individuals.

The syllogism . . .

- (1) individuals exist
 - (2) individuals determine what principles are universal
-
- (C) only individuality-protecting principles are universal

. . . does not establish the chosen principle's necessity. Individuals could choose individual-harming principles (e.g., should it transpire that some individuals are evil and need to be punished or that there is a greater good the achievement or preservation of which demands coercion, submission, or even the death of individuals). To provide content to the chosen principle, other stipulations would have to be added, such as that individuals have an interest in flourishing, self-preservation, and so on. These, however, would have to be deduced rather than assumed to have philosophical credibility.

Lacking such stipulations, any choice remains logically possible: individuals could thus advocate certain dangerous procedures to decide on the right of adolescents to enter certain professions or attain a certain social status *if they are so inclined*. Accepting that some will be immediately physically injured during the rite, they might nevertheless prefer them, as to them, meaningful, individual community membership depends on participation in the rite. Even those immediately harmed might agree with the principle, considering the lack of social status and harm to the community that follows from not going through with the procedure is much greater than the immediate individual harm inflicted by it. If individual social status comes at the price of participation in the rite, they might be willing to pay it. Or the ritual is defined as valuable in itself (e.g., because it reminds the participants of the limits and the fragility of individual subjectivity).

Finally, one might ask how constructivism's choosing individuals are justified: is there a universal principle that grounds their existence? Are they particular individual instances of a universal? If not, are they simply assumed, posited, and ultimately inexplicable? And if there is no universal principle to explain or cause them, how can they be and what are they? One might argue that their implied status as particular individuals depends on the existence of a universal grounding principle they must serve, such as the community, the state, or the greater good. Without it, they themselves are inexplicable and thus unthinkable.

Neither Korsgaard nor O'Neill considers such arguments. Their "Kantian" constructivisms simply assume choosing individuality and either reject the notion of a deduction of *any* determined principles from it, thus leaving normativity empty, or attempt to deduce necessary content from contingency-entailing, individualist premises in a non-transcendental manner.

Habermas

The charge of assuming choosing individuality also applies to Jürgen Habermas's "Kantian," "pragmatic" and "reconstructive" account of norm-justification (Habermas 1993: 1, 10, 11). His individual participants in an un-coerced dialogue (Habermas 1993: 28, 29) do not agree on a determined set of universal moral norms.¹² Habermas even considers thinkers who try to define such a set, such as O'Neill or Rawls, as laying claim to a less "modest," privileged position of theoretical insight that does not rely on real life circumstances (Habermas 1993: 31; Rawls 1995: 138).

Against these, Habermas argues that "post-metaphysical" thought cannot and should not lay claim to a privileged point of view from which the philosopher decides how to live for everyone else. To Habermas, deducing necessary normative content is elitist hubris, while his own account

remains pragmatically “open” and leaves it to the problem-invested discourse participants and their lifeform-based circumstances to determine what particular norms should govern society.

From Kant’s transcendental perspective, however, this amounts to relativism: unless a determined content is shown to follow with necessity from the premises, any content would qualify – anything could “work” unless “working” invokes another universal, determined criterion. If it does not, the notion of “working” does not add to the argument: what happens to work now, or for some, does not need to work at another time or for others.

Does Habermas’s rejection of a deduction of normative content entail that his account cannot be compared with O’Neill’s? If not, it seems that there is no binding reason to prefer Habermas’s over hers. And yet, at least Habermas appears to see himself in competition with Rawls, O’Neill, and Korsgaard, thus implying comparability. Should this be the case, O’Neill would argue that Habermas’s reluctance to deduce content simply betrays a lack of deductive reasoning. His ideal speech situation might be set up to guarantee desired liberal results. However, it then already contains and thus assumes liberal content by way of its design. If it does not, any content seems possible.

The absence of a deductive definition of necessary content would then amount to philosophical underdetermination: by failing to syllogistically define the determined content of normativity, Habermas falls short of providing an evaluative criterion by which to judge the normative adequacy of any given empirical arrangement.¹³ And like his fellow constructivists, Habermas feels justified in assuming choosing individuals instead of explaining their existence in relation to a universal grounding principle.

Rawls

An alternative “Kantian constructivist” theory has been formulated by John Rawls (1999a: 303). It is designed to live up to Kant’s requirements of (1) ensuring the irreducibility and priority of choosing subjects, and (2) defining normatively valid content.

Rawls thinks of himself as going beyond the confines of subjectivity-focused “proceduralist” (Gledhill 2011: 181) constructivism and describes not only the subjectivity-representing rational constructivist process but also the objective, “substantive” results that this process *must* yield. Rawls’s free and equal individuals¹⁴ choose in an unconditioned manner and thereby determine what is the right thing to do. Rawls’s “two principles of justice” are the objective, determined result of the choosing process (Rawls 2001: 42). They represent the objective dimension of normativity that is related to the subjective dimension by some deductive¹⁵ necessity-implying relationship: Rawls’s rational choosers in

the original position would agree to these objective principles and the effects of their application under ideal circumstances, or, if the original position argument is just a “device of representation,” these principles and their effects of application necessarily result from the fundamental ideas of the “freedom and equality” of citizens (Rawls 2001: 17, 18).

Rawls and Normative Content

However, Rawls’s account can be seen to fall victim to two problems. The first is the same that the other constructivisms suffer from: there is no necessary, deductively provable relationship between the subjective dimension of choice by free and equal individuals and objectively valid, determined principles of justice.

Beginning with the notions of (1) free and equal individuals, and (2) society as a fair scheme of social cooperation alone, it does not follow that *any* particular principles of justice are the most or the only adequate ones. The ability of free and equal individuals to define a worldview does not entail a specific worldview. Rawls’s assumption that everyone possesses a “sense of justice” (Rawls 2001: 9) is only not begging the question against universality or other individuality-based notions of justice if there is no assumed determined content attached to the sense.

So either free and equal individuals cannot choose *any* normative content because they know nothing but that they are free and equal, or they might choose principles that protect what they are themselves by assumption – that is, they choose principles of justice that guarantee the freedom and equality that is assumed about them as choosers. In other words, they might choose undetermined individual choosing, which does not define *what determined normative content* must be chosen. Such content-providing “principles” could not state anything but “the freedom and equality of all people must be respected” without relating information about *what* these people would choose as an institutional setup.

Depending on whatever contingent convictions free and equal choosers have, everyone’s respect for freedom and equality might as well entail implementing a utilitarian, collectivist, or authoritarian social order *if* this is what free and equal people believe or know already. They might come to the conclusion that their free and equal individuality is an error, an illusion, a means to a greater end, or just the appearance of a deeper, collectivist or universalist principle – such as Aristotelian substance. In that case, their desire to have themselves justified leads them beyond themselves and their individuality. They might deem a social order that respects individual rights and liberties inferior to an order that prioritizes collective utility, accumulation and concentration of power, security, efficiency, legal stability, and so on, as these collectivist yet universality-based notions matter more to them than individual freedom and equality.

Rawls and Relativism

Second, while the early Rawls seems to have implied that his argument for the principles of justice had universal value and applied to *all* reasonable citizens (Rawls 1999b: xii), the later Rawls suggests that the fundamental ideas of freedom and equality have their origin in what he called the “public political culture” (Rawls 2001: 4–5).

This culture defines the domain of what Rawls calls “objectivity” (Rawls 1996: 110ff). However, by making its reach depend on conditions such as culturally embedded ideas, Rawls reduces the validity of the norms to what might be labeled “generality,” at best “allness,” and undermines universality-based normativity as such (Hegel 2010a: 610): Rawls’s principles of justice are only valid where the culturally transmitted ideas of freedom and equality ground a “reflective equilibrium” (Rawls 1996: 113, 2001: 29).

However, this means that any such claim can be questioned with reference to its lack of universality: if these ideas are not proven to be universally valid in virtue of rationality as such, they might just be a particular ideology that, in the absence of a further criterion, horizontally competes with all other particular ideologies such as authoritarianism and utilitarianism. And if all ideologies are equally particular, there is no necessary or rational reason to opt for one over another.¹⁶

This includes the argument that one ideology “works” better than another: either “working” means being materially, territorially, militarily, and so on, more successful, in which case it can be accused of conflating historical contingency or the “is” of pure might or brute force with normative success. Or “working” refers to some determined universal aspiration such as “empowering individuals,” “securing human rights,” or “realizing equality of outcome.” However, this seems to entail that “working” implies another, determined criterion – for example, the realization of the principles of justice defined by Rawls – and this criterion stands in need of justification.

This also affects the judgments by Rawls in the *Law of Peoples* about societies with different ideological backgrounds. If the culture that grounds the fundamental ideas differs from the culture from which they are judged, why should the judgment apply to them? Rawls admits as much:

[We] conjecture that the conception of political justice . . . is the conception that you and I, here and now, would regard as reasonable and rational and supported by the best reasons. Whether our conjecture is borne out will depend on whether you and I, here and now, can . . . endorse the principles adopted. . . . There is no a priori guarantee that we have matters right.

(Rawls 1999c: 30)

Giving up on Kant's a priori, universality-oriented transcendental argumentation, Rawls limits the psychological and philosophical plausibility of his argument about a just international order to those already committed to the same fundamental ideas as himself. Given that other countries are founded on other fundamental ideas and enjoy different political cultures, Rawls's implication that these countries' setups are inferior to Western "liberal democracies" (Rawls 1999c: 32) may be judged normatively unjustified given the assumed cultural relativity of his own perspective: his taxonomy of reasonable liberal peoples, decent peoples, outlaw states, societies burdened by unfavorable conditions, and societies that are benevolent absolutisms (Rawls 1999c: 4) rests on ideas relative to his own culture and is limited in scope unless the judged cultures subscribe to the same ideas and less successfully live up to their demands.

Rawls's Liberal Agnosticism

Alternatively, a defender of Rawls's approach could claim agnosticism about the validity of one's own culture's implicit norms. Judgments about other societies are then made from a cultural perspective and have no pretense of being universally valid in the way "rational intuitionism" (Rawls 2001: 28), for example, demands. Still, it might be at least conceivable that there is a universally valid perspective on political normativity that coincides with that from within a liberal democratic public political culture.

However, this could not persuade a universality-oriented realist opponent of Rawls's account or a skeptic about normativity. These could argue that agnosticism about whether fundamental ideas are particular or universal amounts to leaving open the possibility that they are merely particular and thus lack proper normative force. Not proving their "real" or universal truth implies that (1) either one does not want to prove it, rejecting the notion of rational argument and disqualifying oneself from rational exchange, or (2) that one cannot prove it, in which case one is open to the charge of contradictorily laying claim to the (true) knowledge that (true) knowledge of truth is impossible.

So without proof about which norms are universal and thus normative, any particular arrangement at any point in time could be more or less normative than any other particular arrangement. Or they have equal normative validity, each in their own way, without a criterion for deciding which of these possibilities is the case. Any choice made in favor of one set of norms over another or for their equality is arbitrary.

With regard to the explanation of the existence of free and equal persons, Rawls seems to align himself with the other constructivists in assuming their existence. He provides no reference to their ground or causal origin: Rawls's choosing individuals are not caused by, explicable in terms of, or deducible from a universal principle. This opens him up

to the realist charge of assuming the premises of his argument and to thereby undermining these premises: unless there is a universal grounding principle, choosing individuals are inexplicable, undefined, and unintelligible.

So while O'Neill's and Rawls's substantive constructivisms follow Kant in attempting to deduce some "realist," objective norms, they end up rendering this content arbitrary in virtue of their prioritization of subjectivity. Meanwhile, Korsgaard's and Habermas's purely procedural constructivisms do not even attempt to define the content and thus deprive themselves of an evaluative criterion. In all cases, constructivists end up either without normativity-guaranteeing universality or without properly objective content due to their fundamental commitment to the priority of individuality. They sacrifice normative content for the sake of individual choice.

Furthermore, lacking a universal causal principle, they leave themselves open to the charge of assuming individuality and thereby undermining it.

2. The Hybrid Theories of Aristotle and Kant

In order to avoid this self-undermining sacrifice of content and universality, both Aristotle and Kant commit to a strong notion of universality and define normative content as intelligible. As will be argued in the following paragraphs, their hybrid accounts are designed to accommodate both a notion of agents' choice and of knowable and necessary objective content. Aristotle is not a pure naturalist realist about normativity (Karbowski 2019; Brown 1997; Nielsen 2012), nor is Kant a pure constructivist. Instead, both attempt to combine elements of constructivism and realism in hybrid theories of normativity: while Aristotle champions an objectivist hybrid theory, Kant formulates a subjectivist hybrid account.

2.1 Aristotle's Objectivism

Among the classical thinkers who have tried to avoid the weaknesses of pure realism and pure constructivism in the context of sociopolitical normativity, Aristotle is the most prominent. In a decidedly anti-relativistic spirit, he follows his pre-Socratic predecessors and Plato in arguing that his philosophical claims are true for all rational beings, and more true than most if not all of the claims of his predecessors (Aristotle 1984, *Metaphysics*: 3351).

Rejecting the notion that his theory contains culturalist or even empiricist elements (Kuehn 2012: 248), Aristotle argues that all agents should aspire to lead the same virtuous life he describes in his writings on ethics (Aristotle 2014) and that all societies should attempt to actualize the just order and adopt the constitution he outlines in the *Politics* (Aristotle

1984, *Politics*: 4365; see also Kuehn 2012: 245). While it might empirically be the case that some agents and societies are less virtuous than others (*Politics*: 4267), Aristotle argues, all should have been, ought to be, and should strive to be virtuous in the future.

In a seemingly constructivist (LeBar 2008) manner and in spite of what interpreters claim who read Aristotle as a mechanical or physicalist determinist,¹⁷ he maintains that agents have genuine choice¹⁸ to act or not act¹⁹ on the values their rationality inherently orientates them towards (Aristotle 2009: 41). He even champions a notion of responsibility²⁰ so demanding that he blames agents for what they do when they are drunk and for getting ill (Aristotle 2009: 46–47).²¹ Since to Aristotle, the pursuit of virtue presupposes the possession of an immaterial, rational soul (Aristotle 2009: 9, 2011: 55), there is no virtue in “mere organic and unorganic nature.” The “real” order of value is thus not “real” without rational, mind-possessing beings (Aristotle 2009, 2011: 28). In this sense, they are the condition for the possibility of normativity.

However, unlike “pure constructivist” positions, Aristotle does not ground his account of practical normativity in the notion of individual choice (Aristotle 2009: 11, 12) or choices made by real or idealized individual subjects.²² To him, the objective order of value does not exist *because* agents choose it. But agents and the order exist *because* there is a substance-based metaphysical order (Aristotle 1984 *On the Soul*: 1439; Hegel 1971: 201). Aristotle’s account of practical normativity is thus placed within the overarching context of substance-metaphysics and its commitment to substance as the most fundamental principle of reality (*Metaphysics*: 3387; see also Stein 2018).

This entails that practical normativity’s subjective dimension – the particular agents – as well as its objective dimension – normative content (*eudaimonia*, the virtues, natural law, the right institutional arrangement, and so on) – are varieties of “substance” (*Metaphysics*: 3350). Agents, minds (*On the Soul*: 1407), the natural (Aristotle 1984, *Physics*: 712) and social world, and the objective order of value are all defined and explicable in terms of substance (*Politics*: 4571)²³ that is a universal, metaphysical principle.²⁴

In its most general form, *substance as such* has a structure that implies identity, determinacy, and dependence.²⁵ For example, the four most general metaphysical causes that, Aristotle (*Metaphysics*: 3384) identifies all imply external conditioning and dependence: material, final, efficient, and formal causality (see Stein 2018: 155) render the effect dependent on the determining cause and vice versa. Without cause, the effect would not be what it is, and without effect, the cause could not be what it is.

This dependence finds its most general expression in the relationship between substance’s universal and its particular dimension: the universal (*hyle*, second substance) (*Physics*: 735; *Metaphysics*: 3525ff) and

the particular dimension (first substance, *morphe*) (*Metaphysics*: 3495ff, 3525ff) hylomorphically depend on each other. This articulates itself in several more concrete relations: without potential, there would be no actuality and vice versa (*Metaphysics*: 3462). Without matter, there would be no form and vice versa. Without soul, there is no living body and vice versa, and so on (see also Stein 2018: 156, 157). One dimension of substance is thus always already informed by and stands in a dependence relation to its respective other. Within substance, both dimensions are first differentiated and then related.²⁶

This “interwovenness” of the dimensions also applies to particular agents, their inner and outer circumstances and their relationship to the order of value: without particular and virtuous societies, agents and their determined circumstances, (universal) substance would remain mere potential (*dynamis*) and fail to be actual (*energeia*) (*Metaphysics*: 3550, 3559). Meanwhile, without universal substance, particular mind-possessing agents, actions, societies, and action-relevant circumstances could neither exist nor be what they are.

2.2 Aristotle and Choice

This entails that agents’ orientation towards the objective order of value and all actions are conditioned by intra-substance causality. Aristotle expresses this in more detail when he argues that agents’ character and actions also always depend on their passions, gender, health, family, education, habituation, character, society, cultural background, and so on. (Aristotle 2009: 14) and that despite agents’ best efforts, whether they truly achieve virtue-based happiness also depends on external factors such as other agents’ actions, natural events, and the political environment:

[Happiness and virtue need] the external goods as well; for it is impossible, or not easy, to do noble acts without the proper equipment. In many actions we use friends and riches and political power as instruments; and there are some things the lack of which takes the lustre from happiness – good birth, goodly children, beauty; for the man who is very ugly in appearance or ill-born or solitary and childless is not very likely to be happy, and perhaps a man would be still less likely if he had thoroughly bad children or friends or had lost good children or friends by death. As we said, then, happiness seems to need this sort of prosperity in addition.

(Aristotle 2009: 14)

The agents’ choice and choice-external factors are thus causally interdependent because both are variations of substance. Choice only exists because there is (1) substance-based choosing agency, (2) the

presupposed objective order of value, and (3) objective, determined, and choice-external factors that determine the choice.

And yet Aristotle also argues that the choice-grounding, soul-internal, and indeterminate dimension of substance bestows normativity upon the objective order of norms and on the external factors. If there were no choices at all, he states, there would be no right or wrong way of acting, and, tautologically, no normatively relevant choice-external factors. There would just be events involving humans that “behave” without truly acting.²⁷ So despite its embeddedness within dependence-and determinacy-implicating substance, agents’ soul-based choice is somehow real and carries irreducible normative weight.

Aristotle argues for the existence of two mutually exclusive entities: (1) an objective, all-determining, substance-based order, *and* (2) particular agents’ at least partially undetermined choice. Does he succeed in justifying their compatibility?

2.3 Kant’s Critique of Aristotle

Kant emphatically denies that Aristotle succeeds (Kuehn 2012: 247). And he does so from a perspective that lays claim to universal validity as much as Aristotle’s own. Arguing that his claims are valid in virtue of articulating universal reason itself (Kant 1991), he implies that they are (and have been and will be) true for all rational beings at all times and places:²⁸

[The teachings of morality] command for everyone, without taking account of his inclinations, merely because and insofar as he is free and has practical reason. He does not derive instruction in its laws from observing himself and his animal nature or from perceiving the ways of the world, what happens and how men behave. . . . Instead, reason commands how men are to act even though no example of this could be found, and it takes no account of the advantages we can thereby gain, which only experience could teach us.

(Kant 1991: 44)²⁹

Kant then proceeds to argue that Aristotle’s substance metaphysics allows no room for properly subjective individual choice because it defines happiness as the highest end and grounds it in substance-based nature. Nature, however, is law-governed and thus undermines individual freedom (Kant 1991: 138). To Kant, the dependence of agency and choice on substance and on substance-based internal and external factors undermines the reality of individual choice and subjectivity altogether: if everything, including the acting subject, its mind, and the world are substance, and substance structurally implies determination and dependence, every “individual choice” is dependent on substance and other substance-based events and entities.

To Kant, a “choice” that is situated within substance metaphysics and thus always already substantially connected with everything else, is no “choice” at all. To him, Aristotle’s “choice” (Aristotle 2009: 29) is “choice” in name only, rendering the Aristotelian concept of action “heteronomous” (Kuehn 2012: 248) and thus dependent rather than “autonomous” and self-legislating.

Despite what interpreters who see Kant as following Aristotle in a “fundamental manner” (Kuehn 2012: 245) claim, or who take Kant’s focus on duty or his critique of habituation (Kuehn 2012: 247) to be its most distinct feature, Kant argues that truly free choice implies the existence of independent *individual subjects* rather than dependent Aristotelian agents. In order to guarantee such subjective agency, Kant posits individual subjectivity as metaphysically first: finite, individual subjects are fundamental in the sense that there is no universal principle – like substance – that embeds, grounds, causes, or founds them and their choices.³⁰

This also entails that according to Kant, Aristotle fails to appreciate that any universal metaphysical principle – such as substance – is always *thought by individual subjects*. Kant’s individual thinkers and their rationality thus take the place of substance: they are the condition of the possibility of the *notion*³¹ of substance – in contrast to the notion that the metaphysical principle “substance” grounds them. To Kant, the notion of substance exists because there are individual, thinking subjects rather than individuals existing because there is substance.³² Such individual subjects also ground Kant’s practical philosophy. Since nothing else grounds them and their shared reason, the order of value that orientates them is always *theirs*. They bring the order into existence instead of depending on a given notion of the “highest good” (Kuehn 2012: 250). Furthermore, Kant’s individuals are defined by an irreducible moment of utter indeterminacy that guarantees their independence from all determined choice-external factors:

Thus everything that is empirical is, as a contribution toward the principle of morality, not only entirely unfit for it, but even highly disadvantageous to the purity of morals themselves, in which precisely consists the sublime worth of a will absolutely good in itself and elevated above all price, that the principle of the actions is free of all influences of contingent grounds that only experience can provide.

(Kant 2002: 43)

The individual subject’s act of unconditioned self-determination³³ implies that the individual could always have willed otherwise; she or he could have committed to another end in another manner. Kant argues that without this indeterminacy the individual subject is (1) not

responsible, (2) has no independent, meaningful conscience, and (3) cannot own and author her or his life (Kant 2002: 16). The same indeterminacy guarantees that the subject is unconditioned and independent in principle *before* any determinacy enters in the form of internal and external factors and chosen ends:

Only that which is connected with my will merely as a ground, never as an effect, only what does not serve my inclination but outweighs it, or at least wholly excludes it from the reckoning in a choice, hence only the mere law for itself, can be an object of respect and hence a command. Now an action from duty is supposed entirely to abstract from the influence of inclination, and with it every object of the will, so nothing is left over for the will that can determine it except the law as what is objective and subjectively pure respect for this practical law, hence the maxim of complying with such a law, even when it infringes all my inclinations.

(Kant 2002: 16)

Kant's 'duty' is thus only unconditional and categorical because it originates in the individual's undetermined independent will. This disqualifies habituation, the striving for happiness, and emotional motivation because their determinacy infringes upon the individual will's undetermined status.

It also entails that without such indeterminacy, there is no true agency. Unless the "agent" can always choose to do otherwise in virtue of her or his indeterminacy, she or he is no "agent" in the sense of being an author or an owner of an action. No ends are ever her or his own because it is not her or him but substance's determinacy that "posits" them. According to Kant, this also applies to Aristotle's "agents." They are merely particular entities that do what they do because of inner (psychological, emotional, and so on) and outer (social, natural, and so on) substance-based causes. Such agents are essentially *determined* in virtue of being aspects of substance, and so they are not agents at all.

The same indeterminacy that protects Kant's agents against such determination also grounds the notion of individuals' self-reliance: Kant's agent depends on his own indeterminacy and thus on himself only – he is independent from anything determined and thus external (Kant 1991: 42). In contrast, an Aristotelian agent who chooses to pursue an end does not depend on her- or himself but on other internal and external determinations. This also undermines the notion of agents being self-sufficient ends in themselves: Aristotle's particular agents are means for something else (i.e., the city-state), while Kantian individual agents have inalienable, non-instrumental worth (Kant 2002: 19).

This also entails that only Aristotle's substance itself or "God" (*Metaphysics*: 3643) – rather than Aristotle's particular agents – are marked by

the self-determination that Kant attributes to individual agents.³⁴ And while Aristotle does have a notion of moral “ought” and of inner moral conflict (Sullivan 1974: 26, 36), his substance-based commitment to the immediate, hylomorphic unity of subjective agent and objective world and objective moral order implies that the ought and moral conflict are indications of a lack of virtue rather than inevitable features of all action in the manner Kant argues. Kant’s commitment to the difference between undetermined subjectivity on the one hand and objective and determined ends and world on the other renders the “ought” and moral conflict inevitable and constant.

This also contradicts the notion that the main difference between Kant and Aristotle is defined by the notion of “duty” (Sullivan 1974: 27). This is only true insofar as Kant’s notion of duty is tied to prioritized and undetermined individuality that prevents any notion of a “degree” of morality (Kuehn 2012: 249), while Aristotle’s notion of duty is embedded in a determinacy-implying substance metaphysics that allows for virtuous habituation and even a determined, intuitive, or emotional form of duty-bound action (Aristotle 2009: 24).

Furthermore, Kant’s fundamental commitment to individual subjectivity grounds his insistence on protection from the state and collectivist³⁵ interests (Kant 1991: 68–149). However, against what has been suggested, this does not blind him to the importance of the social.³⁶ He thus maintains that it is in virtue of “reason and nature” that man is a social being³⁷ that has a rational interest in not subsisting alone.³⁸ By definition, individual reason is manifest socially, such as in relations of right, and in the other-regarding duties of virtue (Kant 1991: 243) that are an indispensable aspect of morality and ethical life.

Still, this social orientation does not absolve the individual subject from duties to herself and from the responsibility to properly own and author her moral and ethical decisions (Kant 1991: 198). Kant’s irreducible, freely choosing individuals do not “disappear” in the community in the sense that in truth, the community is “metaphysically first” – as one can diagnose in Aristotle’s case. Nor is the individual a victim of the tricks of fate, the *zeitgeist*, the educational system, or other external factors. Although individuals rationally and practically need others and have a multitude of duties towards them,³⁹ they retain irreducible rights and duties towards their own thinking and acting, as nothing relieves them of their irreducible individuality and ability to choose (Kant 1991: 214ff).

What does Kant’s critique of Aristotle reveal about the relationship between the constructivist and realist moments within Aristotle’s account?

2.4 Kant’s Subjectivist Hybrid Account

From the perspective of the contemporary realism-constructivism debate, one can make the case that Kant’s prioritization of individual

subjectivity places him in the constructivist camp: presupposed individuals ground the norm that is the moral law. However, Kant also argues that action has a “realist” and thus objective dimension (Stern 2007). Within themselves, his individuals find a universal and necessary⁴⁰ reason that levels categorical demands at them and thus defines a determined order of value. If individual subjects want to act rationally, they cannot but will *these* universal moral ends (Kant 2002: 29).

The objective set of morally permissible ends is thus not just anything that individuals happen to define based on their historical conditions, subjective desires, or their concern with happiness (Kant 1991: 185ff). This would undermine the order’s objective, normativity-guaranteeing status: rational individual subjects cannot choose to give themselves *any* order. They are bound to the order that universal reason always already inevitably prescribes to them. Truly rational agents thus choose to do (Kant 1991: 43) what they rationally must: “[Moral laws] hold as laws only insofar as they can be *seen* to have an a priori basis and to be necessary” (Kant 1991: 43).

In both the *Groundwork* and the *Metaphysics of Morals*, Kant accordingly insists that fully rational subjects will always and must agree on a specific, defined set of legal provisions and individual and social virtues, identifying the social and individual norms that are inevitably true for all rational beings at all times. Crucially, and in contrast to recent constructivists, Kant thus provides a transcendental, universality-tracking, philosophical argument about the relationship between individual subjectivity and the determinations of normative content:

Yet since, considered objectively, . . . there can be only one true system of philosophy from principles, in however many different and even conflicting ways men have philosophized about one and the same proposition. So the *moralist* rightly says that there is only one virtue and one doctrine of virtue, that is, a single system that connects all duties of virtue by one principle.

(Kant 1991: 36)

To Kant, there is thus *one* right way of acting, *one* way of “doing the right thing.” In this respect, he is unapologetically “realist” (Kant 1991: 48).⁴¹

2.5 Kant on Individuality and Relativism

However, Aristotle or a pure realist may argue against Kant: insofar as unconditioned individual choice is fundamental, reasonable norms are the result of and thus *conceptually depend* on individual subjectivity (Yeomans 2015: 176). So while Kant’s moral norms *are supposed to be* irreducibly objective, universal, and “real,” their dependence on thinking and deciding individuals renders them contingent.

This also applies to the virtues. While Aristotle defines these as habitual (Aristotle 2009: 15), Kant insists that each virtuous action implies individual choice:

But virtue is not to be defined [*zu erklären*] and valued merely as an *aptitude* and . . . a long-standing *habit* of morally good actions acquired by practice. For unless this aptitude results from considered, firm, and continually purified principles, then, like any other mechanism of technically practical reason, it is neither armed for all situations nor adequately secured against the changes that new temptations could bring about

(Kant 1991: 189).

All moral ends and virtues are thus what individuals choose and they only exist *because* presupposed subjects choose to develop them.

This raises the following problem: if individuals and their universality-oriented choices of maxims are logically fundamental, the content of normativity depends on individual subjectivity and is contingent. Although Kant wants the content to be necessary, objective, and real in the sense of being “independent” from individuality – individuals find it as a “given” within them and have to follow its demands – his most basic commitment to individuality undermines this aspiration. If morality is what *individuals* have, they could have willed otherwise and have a different morality. There is nothing in the notion of individual choice that entails necessary commitment to a specific content.

Since the determined content of practical normativity is “what (prioritized) individuals have” and “not what is universal and thus had by individuals,” the content could be otherwise: no content follows *necessarily* from the premise of “choosing, individual subjects,” as the premise implies that any content can be adopted *or not*. So against Kant’s explicit intentions regarding the content’s necessary and “real” status, his commitment to the logical priority of subjectivity entails the content’s contingency.

This thought is expressed in the charge of “empty formalism” (Hegel 2008: 131) that Hegel makes against Kant: from the prioritized premise of undetermined thus non-contentful and thus formal “individual subjects that choose consistent maxims,” no particular, determined content follows with necessity. “In every philosophy of reflection, like Kant’s. . . , freedom is nothing else but this formal self-activity” (Hegel 2008: 38) of undetermined, individual self-“determination.”

So when Kant insists on the undetermined indeterminacy and thus “purity” (Kant 1991: 41) of individual, choice-enabling practical reason when he mentions the inadequacy of determined desires, drives, and feelings as moral motivators and demands “duty for duty’s sake,” (Kant 1991: 45–46) he undermines the notion of a determined content that

can be deduced with necessity from prioritized subjectivity. The lack of content in the formalistic premise entails the impossibility of establishing the necessity of any determined content *from* this premise (Hegel 2008: 33ff).

It might thus be true that once certain determined moral maxims like truth-telling and respect for property (Kant 2002: 48) are accepted, it is self-contradictory to undermine them. However, their status as moral maxims and thus their content is not deduced from the notion of choosing individual subjectivity. It is thus not shown *why* it is *these* principles that must be adhered to. Starting with indeterminate, choosing subjectivity, *any* determined maxim is compatible – or none is.

To avoid this, Kant demands the maxims be universalizable (Kant 2002: 18). Only those maxims are moral that a free individual could will without undermining his or her own freedom: oppression, instrumentalization of others, lying, and so on, are immoral because they imply that not all individuals are treated equally. But this seems to amount to saying that the maxims are to be applied consistently *by and to individual subjects*. However, it does not establish why it must be *these* maxims that are to be consistently applied. And while Kant claims to have provided a deduction of morally legitimate maxims, virtues, and legal provisions in the *Metaphysics of Morals* and in the *Groundwork*, one can argue that such a deduction is impossible if one logically begins with a radical difference between undetermined individual and determined moral end.

For example, while the maxim of truthfulness is based on the philosophy-defining absolute status of truth, maxims that demand respect for individual personhood reiterate what is assumed: the validity of individuality and its claim to self-determination. Meanwhile, the more concrete maxims like “respecting property” and “furthering others’ welfare” are not shown to follow from the premise of undetermined individuality with necessity. Their content might be compatible with the premise of “undetermined individuals.” But it does not follow from it. To show that it does, Kant would have to establish that universality-informed individuality is always already an expression of and tied to the determined particularity of the maxims from the logical beginning.

2.6 Kant’s Argument in Sequence

The logical sequence of Kant’s argument is thus as follows: first, the dimensions of (1) undetermined subjectivity (individual choice), and (2) a determined, objective content radically differ, with subjectivity taking priority over objectivity. This guarantees the unconditioned character and thus freedom of subjectivity and individual choice. Then, in a second step, the subjective and the objective dimensions *do* come together, as certain determined ends qualify as rationally necessary. However, since the subjective dimension is first, the objective dimension

depends on the subjective, thus undermining the necessary character of the objective dimension's content. The priority of the subjective dimension entails that the subjective dimension grounds the objective: "individual choice" defines "doing the right thing;" individual subjects define what ought to be done. Objectivity becomes "subjectivity in disguise," and normativity's determinacy is sacrificed in favor of individual choice.

Faced with a self-imposed choice between (1) securing the independence of the subjective dimension, and (2) rendering it compatible with the objective dimension of content, Kant thus opts for the former. It is his focus on the priority and utterly unconditioned, emancipated character of subjective individuality and its undetermined choice *in unity* with his demand for properly objective normative content that differentiates him most clearly from the objectivist Aristotle – and from most of his other philosophical predecessors.⁴²

To contradict this reading, one may appeal to Kant's insistence on the orientating properties of universality as "categorical imperative." Kant argues that knowledge of the imperative and its universality is always already implied in his notion of individuality: individuals participate in universal reason by definition. However, insofar as Kant rejects any notion of reason as a *prioritized* universal that "causes" or "posits" individuals and implies that reason's universality depends on the prioritized existence of individuals, he places individuality before reason's universality: Kant's reason is the reason *of individuals*. And as was the case with the other constructivisms, the inexplicability of individuality in terms of a universal principle can be argued to undermine itself: unless individuality is caused by or explained in terms of an equally valid and thus not subordinated universality, it is undefined and ultimately unthinkable.

Both Aristotle and Kant thus seem to undermine one of the two dimensions that define sociopolitical normativity: Aristotle loses the subjective dimension of unconditioned choice due to his objectivist substance-metaphysics, while Kant loses the objective dimension of content due to his preference for unconditioned subjective choice.

3. Hegel on Practical Normativity

3.1 Hegel's Lessons from Kant and Aristotle

This parallels Hegel's criticisms of his predecessors. To him, Kant's prioritization of individual subjectivity in combination with the emphasis on the difference between individuality and determined content undermines the notion of a compatibility of subjectivity and content along with the possibility of a deduction of content. It also undermines the privileged individuality: in the absence of a universal grounding principle, individuality is not determined by means of contrast and is thus inexplicable and unthinkable.

Meanwhile, Aristotle's deduction of agency and the content of practical normativity from a single universal but objective principle explains the compatibility of the two dimensions but undermines the notion of unconditioned individual choice (Hegel 1971: 68). In so doing, it undermines the universality of the all-causing substance: unless universal substance is always already contrasted with individuality, it lacks contrast and determination and thus cannot be comprehended (see also Stein 2018).

It might therefore seem that Kant and Aristotle reproduce the initially mentioned problems associated with constructivism and realism: Aristotle's unity of realist and constructivist moments within substance is ultimately objective and undermines choice and individual subjectivity and thus undermines substance's universality. Meanwhile, Kant's difference-dominated "unity" of constructivist and realist moments is ultimately subjective and thus without necessary normative content. This, in turn, undermines individual subjectivity. While both authors' hybrid theories aspire to reconcile constructivist choice and realist content, they end up undermining one of the dimensions by prioritizing the other. Still, Hegel thinks that there is something to learn from both thinkers.

3.2 Hegel's Lessons: Aristotle's Identity, Kant's Difference, and Method

What Hegel appreciates about Aristotle's approach is that the subjective and the objective dimensions of practical normativity are united in an identity-based relationship. This enables an explanation of how rational choice leads to determined action (Hegel 2008: 31ff): since subjective choice *is* objective content in virtue of both being substance, there is a necessary relationship between the two.⁴³

Hegel also applauds Aristotle's defense of objectivity's independence from subjectivity: by rendering content as objective as substance itself, Aristotle avoids making content dependent on subjective individual choice in the manner of Kant. And yet, Hegel argues, the substantial unity of the two dimensions cannot be "just objective," as this undermines the notion of individual choice.

Hegel thus praises Kant for rigorously differentiating between individual subjectivity and the choice it enables on the one hand and objective content on the other.⁴⁴ By insisting on the radically unconditioned independent character of individual subjectivity and its ability to choose, Hegel's Kant emancipates the individual subject and its choice from determinacy and avoids the reduction of self-determining subjectivity to objectivity.

To Hegel, Kant is thus right in claiming that there is an irreducibly independent and individual subjectivity that cannot be explained away in terms of objectivity. This subjectivity enables (1) the formulation and application of a systematic subjectivity-based philosophical

method,⁴⁵ and (2) the argument for the moral and ethical equality of all rational beings.

At the same time, Aristotle's lack of a subjectivity-based deductive method entails that merely particular factors such as happiness, chance, upbringing, birth, ethnic and cultural background, and community life affect the virtuousness of the agent (Aristotle 2009: 14, 26).⁴⁶ This amounts to the presence of undeduced "mere" objectivity within the hylomorphic unity of choice and objective ends in Aristotle's account: because Aristotle lacks a method by which to deduce the necessary objective content of practical normativity, he includes nonrational content.

In contrast, Hegel's Kant insists on the philosophical relevance of only that kind of objectivity which can be deduced from subjectivity. Independently of our merely particular empirical features and circumstances, we as equally individual unconditioned subjects can and must obey the same universally valid conceptual demands of unconditioned moral and ethical duty (Hegel 2008: 111ff).

Kant's insistence on the priority and unconditionality of the subjective dimension thus motivates Hegel to argue that any determined content that hopes to be shown to be normatively valid has to be deduced from the unconditioned subjectivity that Hegel labels "the concept of the will" (Hegel 2008: 28). However, in contrast to Kant's determinacy-opposing subjectivity of the moral law, Hegel's *conceptual* subjectivity always already contains determined particularity and individuality (Hegel 2010a: 529ff).

This enables Hegel to argue that normative content and subjectivity are always already united, so that content can be shown to necessarily follow from subjectivity (Hegel 2008: 48). The content that can be deduced from the concept of the will qualifies as equally unconditioned, universal, and normative as the concept of the will's subjectivity.

In its search for the determinations of practical normativity's unconditioned subjectivity-compatible objectivity, Hegel's philosophy thus tracks and describes the determinations that are implicit in the "concept of the will's" subjectivity.⁴⁷ By tracing the conceptual unfolding of always already particularity-informed subjectivity,⁴⁸ Hegel's philosophical thinker is able to differentiate contingent and arbitrary, merely empirical,⁴⁹ content from conceptually necessary, normative, and objective content.

Examples of the former include Aristotle's empirical factors like upbringing, social context, and habits. These might have psychological or empirical relevance when it comes to explaining the way agents and societies happen to live up to normative standards. Empirical sciences can identify and classify their nature and impact. However, they have no *conceptual* relevance for philosophy, as there is no necessity-implying deductive relationship between them and unconditioned subjectivity. Instead, to Hegel, only those objective determinations that are not *just* objective but are unconditioned subjectivity in objective form (as actuality) qualify for philosophical consideration: "The subject-matter of

the philosophical science of right is the *Idea* [*Idee*] of right, i.e. the concept of right together with the actualization of that concept" (Hegel 2008: 17). These are the determined norms, principles and institutions that are unconditionally true and should shape all individual and collective actions, such as the institutions of personhood, property, contract, morality, family, civil society, and the (rational) state (Hegel 2008: 50).

3.3 Hegel on Kant and the Normative Equality of All Beings

Hegel also maintains that Kant's prioritization of unconditioned subjectivity enables another thought unavailable to Aristotle: the moral and thus normative equality of all rational individuals, irrespective of their empirical differences: "It is part of education, of thinking as the consciousness of the individual in the form of universality, that the I comes to be apprehended as a universal person in which all are identical" (Hegel 2008: 198).

In contrast, when Aristotle claims that the ultimate end of all actions is particular happiness informed by universal virtue (Aristotle 2009: 14), when he accepts the notion of natural born slaves,⁵⁰ the idea that disabled children should be killed,⁵¹ that Greeks are more rational than barbarians,⁵² and that men are more rational than women,⁵³ he denies that there is a universal, unconditioned, and incomparable source of value that all rational individuals share equally as persons and that bestows the same unconditional value upon them. Instead, Aristotle's hylomorphic notion of objectivist norms implies that humans can be compared in moral terms: some are more virtuous and thus better than others. They have better minds,⁵⁴ bodies,⁵⁵ greater self-control, better family background, offspring, more luck, and so on.

This is rejected by Kant, who denies the possibility of interpersonal *normative* comparison when he argues that it is in virtue of our equal moral dignity with its foundation in the unconditioned subjectivity shared by all rational beings that we are all infinitely morally worthy, irrespective of our empirical differences:

But man regarded as a person, that is, as the subject of a morally practical reason, is exalted above any price; for as a person (*homo noumenon*) he is not to be valued merely as a means to the ends of others or even to his own ends, but as an end in himself, that is, he possesses a dignity (an absolute inner worth) by which he exacts respect for himself from all other rational beings in the world. He can measure himself with every other being of this kind and value himself on a footing of equality with them.

(Kant 1991: 230)

So while Kant acknowledges that *empirically* speaking, people do differ physically, culturally, mentally (Kant 2006), and so on, and that some people probably commit more moral deeds over their lifetimes than others,⁵⁶ there is nothing about individuals *as beings who are free in principle* that places them morally above or below any other. While individuals differ phenomenally, they are noumenally and thus morally the same due to their participation in the same unconditioned noumenally grounded subjectivity.

Hegel is able to side with Kant against Aristotle on this matter due to Hegel's commitment to unconditioned subjectivity within the unity of the concept of the will: although Hegel's agents are compelled to commit to objectively valid institutions, their possession of choice-grounding unconditioned subjectivity renders them ethical equals.

3.4 Hegel's Balancing of Subjectivity and Objectivity

Hegel thus appreciates Kant's understanding of subjectivity's and thus choice's unconditioned character (Yeomans 2012: 70) and Kant's notion of moral equality. At the same time, Hegel agrees with Aristotle's insistence on unconditioned objectivity⁵⁷ and on the identity of choice and content. And yet Hegel also maintains that both authors fall into the same logical trap when they prioritize either subjectivity or objectivity over the other dimension.

According to Hegel, prioritizing either dimension undermines the status of the contrasting dimension. This, in turn, deprives the privileged dimension of its own status. Since the privileged dimension is only defined in contrast to the unprivileged dimension, the privileged cannot be what it is if the unprivileged is not what it is. So if the unprivileged dimension turns out to be the privileged dimension after all, all that exists is the privileged dimension, which, lacking a means of contrast, is not even "nothing determined" (Hegel 2008: 30–31).

To Hegel, the subjective dimension of individual choice is thus only what it is because it is "not objective content" and vice versa. Once Aristotle privileges the objective dimension, he turns both dimensions into objectivity, thus undermining the subjective dimension. This, in turn, undermines the privileged objectivity, as it has nothing to contrast itself with. Meanwhile, Kant privileges subjectivity and thus turns objectivity into subjectivity. This undermines subjectivity, as it lacks objectivity as a means of contrast. In both cases, the privileged dimension loses its own determination by losing its contrast. By depriving itself of the unprivileged dimension as a means of contrast, the privileged dimension thus deprives itself of itself.⁵⁸

Applied to the notion of choice of content, this entails: if choice without content is all there conceptually is, choice is not choice but nothing – without anything to choose, there is no choice. If content⁵⁹

without choice is all there is, content is not content but nothing; without choice, there is nothing *to choose*. Applied to realism, this means: if “we” depend on universal nature or God’s will, there is no “us” as individuals. But without “us,” there is also no nature or God. Applied to constructivism, this entails: if “we” are all there is, there is no nature or God. But without nature or God, there is no “us,” either.

Hegel thus tries to avoid what he sees as Aristotle’s objectivist⁶⁰ and Kant’s subjectivist reductionism and redefines the relationship between the unconditioned subjective dimension of individual choice and its properly objective dimension of defined content. In the spirit of Kant and against Aristotelian objectivism, Hegel wants the subjective dimension to be unconditioned. To him, Kant (and pure constructivism) is right in arguing that the subjective dimension must be properly emancipated from objective factors to ensure the unconditionality of choice, moral equality, and a method of deducing content in a manner Aristotle does not allow for.

At the same time, Hegel does not want the subjective dimension to be unilaterally prioritized over objectivity. This would either (1) reduce the content to a function of the prioritized subjectivity and undermine both dimensions, or (2) render inexplicable the connection between subjectivity and objectivity. Like Aristotle, Hegel thus aims for an irreducibly objective dimension of content.⁶¹ This way, both dimensions have a contrast *and* are independent of the respective other: choice is “not content” *while* content is “not choice” (Moyar 2011: 68ff). Hegel thus argues for both: an unconditioned and independent subjective dimension *and* an unconditioned and independent objective dimension. Each is irreducibly what it is without either undermining the other.

At the same time, in Aristotelian spirit, the dimensions must be compatible and thus connected by some kind of identity.⁶² This is required to render explicable how rational, determined action can involve choice and how undetermined choice entails determined action. To Hegel, the resulting “difference within identity” of the moments is a distinctly *speculative* notion:

In terms of form, the logical domain has three sides: (α) *the abstract* side or that of the *understanding*, (β) *the dialectical* or negative *rational* side, (γ) *the speculative* or positive *rational* side.

(Hegel 2010b: 125)

... where ...

The *speculative* or the *positively rational* grasps the unity of the determinations in their opposition, the *affirmative* that is contained in their dissolution and their passing over into something else.

(Hegel 2010b: 132)

In the context of practical normativity, this means that the subjective and objective dimensions oppose, contradict, and delineate each other: each is what the other is not. At the same time, there is affirmable positivity in their unity: practical normativity has both independent subjectivity as constructivist choice *and* independent objectivity as realist content. It is unconditioned choice that affirms unconditioned objectivity. Although choice and content contradict each other, speculative thought brings them together within a single unity.

3.5 Hegel's Concept and Our Freedom

Hegel thus accommodates both irreducible dimensions within the categorical unity that he labels “the idea of the will” (Hegel 2008: 46). It is the difference-preserving identity of (1) the subjective “concept of the will” that contains individuality, particularity, and universality, and (2) the self-given objective determinacy of this concept (Hegel 2008: 46). Like Aristotle’s universal substance, the concept enables a general explanation of finite choosing individuality: choosing subjects are not just assumed or posited, as is the case with Kant. Instead, there is a universal principle to systematically ground and metaphysically explain their existence and actions. Meanwhile, the concept’s objectivity provides the determined content that is adequate to the concept’s subjectivity.

Crucially, Hegel provides an unconditioned definition of practical normativity’s objectivity and content: neither history nor pragmatic trial-and-error-style experimentation define the true content of normativity. Instead, it is the unconditioned concept itself that defines and unites itself with its own objectivity. This true content will articulate itself historically and pragmatically in the sense that it defines the institutions, norms, and practices in history that “work.” But it only defines history, and it only “works” because it is true, not vice versa. Were it to conceptually depend on historical contingencies and pragmatic considerations, it would be conditioned, unable to self-justify, and this would undermine its ability to silence demands for further justification or to rebut accusations of dogmatism (see Stein 2019a).

Still, one may wonder whether the notion of a universal, unconditioned, and self-positing concept undermines individuals’ unconditioned choice? Is Hegel’s choosing subject ultimately just as determined by the universal “concept of the will” as Aristotle’s particular agent is by “substance”? In other words: if the concept of the will freely causes the “choice” and the actions of “individuals” (Hegel 2008: 33–34), how can they exist as individuals *and* have genuine choice without being reduced to being the universal concept and thus determined after all? Similar to Aristotle’s substance metaphysics, it seems that neither Hegel’s individual subjects nor their choices are real if the true choosing “agent” is the universal concept of the will.

In response to such worries, Hegel points to the specific structure of “free” (Hegel 2010a: 513) self-positing (its causality) that defines the relationship of the moments within the unity of the concept. In the concept, individuality and universality are identical aspects of the concept’s self-positing activity, while neither loses its irreducible character within this identity. The concept retains self-referential individual subjectivity in the meaning defined by Kant *while* rendering it explicable with reference to the concept of the will’s universality (see also Stein 2018).

Every self-consciousness knows itself (i) as universal, as the possibility of abstracting from everything determinate, and (ii) as particular, with a determinate object, content, and aim. Still, both these moments are only abstractions; what is concrete and true (and everything true is concrete) is the universality, which has the particular as its opposite, but the particular which by its reflection into itself has been equalized with the universal. This unity is individuality.

(Hegel 2008: 32)

Within Hegel’s concept, particularity, individuality, and universality are thus all equally valid moments, so that each willing individual subject is truly unconditioned *while* being particular and participating in the universal concept (Hegel 2007: 42). Individuals are grounded by the universal dimension of the concept *while* the universal dimension of the concept is posited in them.⁶³

Hegel’s willing and thus properly choosing subjects therefore *are* the universal concept *while* the concept is them. Without universality, individual choices would not exist. At the same time, without individuals’ choices and their particularity, universality would not be concrete. When self-conscious individuals commit to particular, rational determinations, they remain self-referential because both individuals and the content are the universal that refers to itself:

If the [universal concept of the] will’s determinate character lies in the formal opposition of its subjectivity to the objectivity of external immediate existence, then this is the *formal* will as self-consciousness which *finds* an external world *confronting* it.

(Hegel 2008: 33)

Self-conscious conceptually undetermined individuals thus refer to determined ends as “something else” when they act. But since both they and the committed ends are the universal concept of the will, the concept as individual is referring to the concept as end. So in individual actions, the universal concept refers to itself. However, it does so *in the acts of individuals* in such a manner that at the same time, individuals’ actions define what the universal concept “does.”

Hegel's account of rational willing as conceptual activity thus combines three features. It is (1) universally informed, (2) has particular content, and (3) is individual and thus self-referring and independent. Individual choice and particular content are explicable with reference to the same universal principle. But *at the same time*, and unlike Aristotle's substance, this universal principle is only explicable with reference to individual choice and particular content: the universal does not exist if it is not individual choice and content.

3.6 Hegel on Unconditioned Choice and Unconditioned Content

Hegel's individuality and particularity are thus *not* rendered dependent on prioritized universality in the manner Aristotle's particular agents are determined by universal substance. And unlike Kant, Hegel does argue that there is a universal metaphysical principle that "freely 'posits'" (Hegel 2010a: 513) (i.e., causes) and "renders explicable" the choices of particular individuals and normative content. However, unlike Aristotelian substance, this principle does not undermine individual subjectivity and choice: following Kant, Hegel argues that subjectivity-based individuality and its independent choice is irreducible – it is required to render actions' particular content and the freely causing universal principle intelligible:

In the concept, . . . the kingdom of freedom is disclosed. The concept is free because the identity that exists in and for itself and constitutes the necessity of substance exists at the same time as sublated or as positedness, and this positedness, as self-referring, is that very identity. . . . [T]he "originary fact" is "originary" because it is a "self-causing fact," and this is the substance that has been let go freely into the concept.

(Hegel 2010a: 513)

Hegel thus argues for both at once: (1) the explicability of individual choice and particular content with reference to a universal principle, *and* (2) the explicability of the universal principle with reference to individual choice and content. Within the overarching identity of the concept of the will, universality, content, and choice are all irreducibly real and are required to explain and metaphysically enable the other respective moments (Hegel 2010a: 529–530).

This entails three different, yet *logically equivalent* ways of describing Hegel's concept of practical normativity:

- (1) Particular content and individual choice are normative because they originate in the universal principle "the concept of the will."
- (2) The universal principle is concrete because it gives itself particular content and posits ("freely causes") itself in the choices of individuals.
- (3) Individuals choose rationally and thus render concrete the universal principle and its particular content.

Constructivism's and Kant's emphasis on the irreducibility of individual choice is retained in all three descriptions. The same goes for realism's and Aristotle's concern with a universally grounded, objective order of value. Neither choice nor content is prioritized, but both dimensions are equally unconditioned and indispensable. At the same time, they are compatible with each other and normative in virtue of being "freely caused" ("posited") by the same universal principle.

This means for the relationship between choice and content that in Hegel's concept, the subjective dimension of "individual choice," is unconditioned and irreducible because it is not content's "doing the right thing." Neither substance/nature nor God determines individuals do the right thing, *they can always do otherwise*. Meanwhile, the determination of "doing the right thing" is unconditionally objective and independent from subjectivity because it is defined as "not individual choosing." It is objectively true, regardless of whether it is chosen or not. Each dimension is equally irreducibly what it is because it is not the respective other dimension.

And yet, through the concept, the dimensions are also united: they are aspects of the same concept. Rational individuals choose rational content. In a constructivist manner, individuals thus author and own the right course of action: rational individuals freely choose to commit to rational content, they are not determined to do so by universal substance. There is an identity-based positing from choice to content so that rational choice *is* doing the right thing. *Meanwhile*, the content's definition of "doing the right thing" justifies individual choice: individual choice is rational because the chooser is "doing the right thing" by committing to the objectively true content.

In contrast, "doing the wrong thing" undermines the normativity of the "choice" and choosing wrongly undermines the status of "doing the right thing": (1) acting wrongly means one does not choose rationally, and (2) choosing wrongly means that one is not doing the right thing. One only *truly* acts if one freely chooses to do the right thing. Crucially, Hegel's rationally choosing individual subject does not choose an externally given, dependence-inducing content. Instead, it chooses that determined content that is an articulation of the same concept of the will as the agent's indeterminacy-based ability to choose.

The concept is choosing and the concept is content, so that in choosing to do the right thing, the individual chooses what it is itself, only in determined form. The choosing subject thus depends on nothing external. In choosing the content that universal reason prescribes, the individual is with itself and free:⁶⁴

It is the *self*determination of the I, which means that at one and the same time the I posits itself as its own negative, i.e. as restricted and determinate, and yet remains with itself, i.e. in its self-identity and

universality. It determines itself and yet at the same time binds itself together with itself. – The I determines itself in so far as it is the relating of negativity to itself.

(Hegel 2008: 31; see also Bowman 2013)

The common conceptual origin of undetermined choice and chosen content ensures that rational choice is not arbitrary: truly rational agents do not choose *any* content but only the content prescribed by the concept. If they chose irrational content, they would not be with themselves in the act of choosing. Instead, they would depend on something else and thus be unfree. As acting subjects, “individuals” are free in Kant’s unconditioned sense as long as they choose the determined content that in virtue of its origins in the concept corresponds to their choice’s indeterminacy. And this ensures that they do not depend on choice-unworthy, conceptually unwarranted, merely psychological factors in the manner Aristotle suggests.

What does the determined content of rational choosing concretely look like? Hegel describes what he thinks in the *Philosophy of Right* as ethical life’s determinations of “family,” “civil society” and “the state” (Hegel 2008: 154ff) that integrate abstract right’s determinations of personhood, property and contract, and morality’s notion of conscience-possessing moral subjectivity. The fully rational individual embodies, maintains, and participates in these practices and institutions, and gains insight into their objective validity and into her or his own freedom-based relationship to them along the way (see also Stein 2019b).

Conclusion

Hegel’s account of rational action combines an Aristotelian concern with the moments of unconditioned objectivity and thus “realist” normative content with a Kantian concern with unconditioned, individual subjectivity and thus “constructivist” choice. To Hegel, both moments must be irreducibly real *while* being compatible.

Like Aristotle does in letter and Kant and the constructivists do in spirit, Hegel insists that individual agents are free to act in accordance with or against rational norms: whether we do what is rational depends on our individual choice. This is guaranteed by the irreducibility of our individual subjectivity. And like Aristotle claims in spirit and Kant and substantive constructivists do in letter, so Hegel argues for a properly objective: that is, nonsubjective, normative order that defines what is “the right thing to do.”

According to Hegel, both content and choice originate in the same universal concept that also grounds the egalitarian dignity of all mind-possessing agents and that enables the philosophical deduction of normative content’s determinations. However, Hegel’s concept-based

solution to the conflict between realism and constructivism relies on his self-titled “speculative” (Hegel 2010a: 35) method that he deems closer to Aristotle’s (Hegel 1971: 144)⁶⁵ than Kant’s approach (Hegel 2008: 31) and that is incompatible with the reflection-based constructivisms discussed earlier.

In conclusion, it seems fair to claim that Hegel would subscribe to one of the many senses of Heraclitus’s aphorism about the inevitability of a universal principle Heraclitus calls “fire” and Hegel labels “the concept” (Hegel 2010a: 511). To Hegel, it posits normative subjective choice and objective content, just like all material and immaterial reality, in a manner that preserves individual self-determination. Escaping it is neither possible nor desirable nor rationally conceivable.

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Notes

1. Paralleling the debate between realism and mentalism in epistemology; see Kyriacou and McKenna (2018).
2. Designed as an alternative to substance metaphysics.
3. And thus naturalist undermining of freedom; see Stein (2018). Regarding Hegel’s critique of the substance metaphysician he considered most systematic but who on Hegel’s view also undermined free individuality, see Förster and Melamed (2012).
4. “Independent” at least in the sense of “not being alterable by mind(s),” not in the sense that “humans are not involved,” although it is possible that the “real” moral order exists as potential until mind-possessing creatures empirically exist to act on or against it. See the distinction between moral realists and “independent moral realists” (Kirchin 2012: 22).
5. Or moral or good.
6. “Mind-independence” (Kirchin 2012: 12) is a misleading description of realism insofar as there are realists who acknowledge that moral facts are only real because there are minds to whom they are real (e.g., Aristotle).
7. “Value is something conferred upon the world by valuing creatures, and it enters and exits the world with them” (Street 2012: 40).
8. The determinations of the “universal moral law.”
9. O’Neill’s principle of “rejecting injury” (O’Neill 1996: 166), “avoiding indifference and neglect” (O’Neill 1996: 193, 194ff), amounts to this tautological claim: individuals do not want individuality unduly infringed. Her “virtues of justice” (O’Neill 1996: 187) like justice, fairness, toleration, respect, fidelity, probity, truthfulness and honesty remain conditional (O’Neill 1996: 186), her “principles of imperfect obligation” (O’Neill 1996: 197) and “principles of virtue” (O’Neill 1996: 199) and social virtues are indeterminate and not transcendently deduced but rather enumerated without any obvious deductive method.
10. O’Neill defines practical reasoning as following principles that are “adoptable” or “followable by all for whom it is to count as reasoning” and as having to meet

- certain requirements (O'Neill 1996: 57). These requirements must follow from the form of reason with necessity, otherwise reason collapses into particularism. Furthermore, the "sphere" of reasoners must be universal if reason is to be so (O'Neill 1996: 59). If the sphere is defined by particular beliefs, practices, and so on, reason becomes particularized and loses its normative force.
11. O'Neill has reservations about mere (sheer) choice (O'Neill 2004: 39).
 12. "[Discourse ethics] attempts to show that the meaning of the basic principle of morality can be explicated in terms of the content of the unavoidable presuppositions of an argumentative practice that can be pursued only in common with others" (Habermas 1993: 1).
 13. While the same might ultimately be said about Kant's account due to his prioritization of unconditioned individual choice over objectivity, Kant himself argues that the norms he enumerates in the *Metaphysics of Morals* are unavoidably connected to unconditioned subjectivity and irreducibly objective in contrast to it. Whether he meets his own standard of deduction or not, Kant thus at least considers it philosophy's task to attempt to deduce objective norms from a notion of unconditioned individual choice as opposed to Korsgaard and Habermas, who are content with defining the subjective dimension and avoid defining normativity's objective dimension.
 14. The hypothetical denizens of the original position as much as those real-life individuals buying into the ideas of freedom and equality.
 15. What he calls "reflective equilibrium." His principles are what must be agreed on if one accepts the ideas of freedom and equality.
 16. Even if the entire planet's population happened to share a particular, culturally grounded commitment to individualist constructivism, this would not render it universal in the normative sense. Another way of putting the same criticism is to say that the construction process lacks normativity because it does not appeal to true universality but grounds everything in particularities, such as "facts" (Cohen 2003: 211ff.).
 17. Not everyone read him this way, e.g., Roderick Chisholm (1964) championed him as a quasi-libertarian.
 18. "[T]he moving principle is in ourselves" (Aristotle 2009: 44).
 19. "Now if it is in our power to do noble or base acts, and likewise in our power not to do them, and this was what being good or bad meant, then it is in our power to be virtuous or vicious" (Aristotle 2009: 46).
 20. That "man is a moving principle of actions" (Aristotle 2009: 44).
 21. "[For] the principle that moves the instrumental parts of the body in such actions is in him, and the things of which the moving principle is in a man himself are in his power to do or not to do. Such actions, therefore, are voluntary" (Aristotle 2009: 38). Furthermore, Aristotle is not a "determinist" in the sense that individual actions and choices are determined by mere passions or physical-mechanical chains of cause and effect that originate outside the individual subject. There is genuine indeterminacy involved in his notion of choice. In this sense, he also is not a compatibilist: the agent's choice-grounding indeterminacy is clearly different from choice-external chains of cause and effect. But fundamentally, this indeterminacy is always already intertwined with determinacy, thereby becoming itself determined. He is thus a "determinist" in the sense that choices are explicable in terms of determined substance (see Ferrarin 2004: 8ff.).
 22. "[H]uman good turns out to be activity of soul exhibiting virtue, and if there are more than one virtue, in accordance with the best and most complete" (Aristotle 2009: 12). See also de Laurentiis (2018).
 23. Aristotle seems to think that such metaphysical explanation enables him to ensure the systematicity, coherence and consistence of his philosophy.

Aristotle's commitment to substance also entails that he is not a "realist" in the sense that the order of value is given "externally" to the choosing individuals: the individual subjects, their minds and the objective order of value are all manifestations of and thus "within" substance. Ultimately, this means that only substance is real and that there are no individuals to whom anything could be given externally. So Aristotle is only a "naturalist" if substance and all its material and immaterial forms are – somewhat misleadingly – equated with "nature." This might be confusing insofar as natural nonrational nature is but one of the manifestations of substance that he discusses (see Aristotle 1984, *Physics*). Aristotle is thus not a physicalist-naturalist insofar as his notion of substance includes genuinely spiritual, that is, nonmaterial elements. And he is not a determinist insofar as he maintains that within substance-grounded mental life, there is individual freedom of choice and responsibility.

24. Interpreters who defend substance-pluralist interpretations of Aristotle (e.g. Henry 2011) face the problem of explaining why these substances can interact at all.
25. For example, the subject-predicate version of substance (Aristotle 1984, *Metaphysics*: 3361ff).
26. "If, then, we have to give a general formula applicable to all kinds of soul, we must describe it as an actuality of the first kind of a natural organized body. That is why we can dismiss as unnecessary the question whether the soul and the body are one: it is as though we were to ask whether the wax and its shape are one, or generally the matter of a thing and that of which it is the matter. Unity has many senses (as many as 'is' has), but the proper one is that of actuality" (Aristotle 1984, *On the Soul*: 1438, 1439).
27. Aristotle associates this with animals and children (Aristotle 2009: 41).
28. Philosophy thus reports on the "eternal now of truth," rather than on what historically happened. (Hegel 1971: 24)
29. "On what, then, rests the achievement of the ultimate vocation of human nature? The general foundation is the civil constitution; the union of human beings into a whole, which serves to achieve the cultivation of all talents, and also for one person's giving the other the freedom for that cultivation – through this it happens that the predisposition to talents is developed; through this the human being is elevated out of his animality. Here, however, one member already influences a perfection of the other, which the other can cultivate all the better" (Kant 2012: 276). So if norms were not historically manifest, they should have been and their empirical, historical manifestation is itself a sign of rationality (Kant 1991: 44, 45, 276). If Kant's claims about practical normativity's objective dimension were not grounded in transcendental reflection, they would be empirically, historically, sociologically, and so on, conditioned, relative, and could lay no claim to universal and normative validity.
30. "[T]he rational being must always consider itself as giving law in a realm of ends possible through freedom of the will" (Kant 2002: 52).
31. "Likewise, if you remove from your empirical concept of every object, whether corporeal or incorporeal, all those properties of which experience teaches you, you could still not take from it that by means of which you think of it as a substance or as dependent on a substance (even though this concept contains more determination than that of an object in general). Thus, convinced by the necessity with which this concept presses itself on you, you must concede that it has its seat in your faculty of cognition *a priori*" (Kant 1998: 138).

32. From Kant's individuality-assuming point of view, Aristotle uncritically assumes the reality of substance as metaphysical principle without reflecting on its individuality-related conditions. Aristotle's response that Kant fails to appreciate that substance is the condition of the possibility of the existence of finite thinkers raises the question of which criterion could be appealed to for settling their dispute.
33. "[F]or reason, which recognizes its highest practical vocation in the grounding of a good will, is capable in attaining this aim only of a contentment after its own kind, namely from the fulfillment of an end that again only reason determines, even if this should also be bound up with some infringement of the ends of inclination" (Kant 2002: 12, 13).
34. Insofar as "God" is purely active substance (*actus purus*), only it is properly free: "for the actuality of thought is life, and God is that actuality; and God's essential actuality is life most good and eternal" (Aristotle 1984, *Metaphysics*: 3643).
35. "A *person* is a subject whose actions can be *i mputed* to him. *Moral* personality is therefore nothing other than the freedom of a rational being under moral laws. From this it follows that a person is subject to no other laws than those he gives to himself (either alone or at least along with others)" (Kant 1991: 50).
36. Compare Paul Giladi's chapter in this volume.
37. See, e.g., "For a state of nature is not opposed to a social but to a civil condition since there can certainly be society in a state of nature, but not *civil* society (which secures what is mine or yours by public laws). This is why Right in a state of nature is called private Right" (Kant 1991: 67).
38. "The concept of Right, insofar as it is related to an obligation corresponding to it (i.e., the moral concept of Right), has to *do, first*, only with the external and indeed practical relation of one person to another, insofar as their actions, as facts, can have (direct or indirect) influence on each other" (Kant 1991: 55, 56).
39. For example, promoting their happiness (Kant 1991: 190), benevolence, respect, beneficence, gratitude, sympathy, and so on. (Kant 1991: 246).
40. "[T]hey hold as laws only insofar as they can be *seen* to have an a priori basis and to be necessary" (Kant 1991: 43).
41. "A categorical (unconditional) imperative is one that represents an action as objectively necessary and makes it necessary not indirectly, through the representation of some *end* that can be attained by the action, but through the mere representation of this action itself (its form), and hence directly" (Kant 1991: 49).
42. Aristotle would accuse Kant of assuming mind-possessing individuality without deducing it from a more profound metaphysical principle such as substance. To Aristotle, Kant is superficially concerned with the appearance of substance in the form of finite mind-possessing beings rather than with substance as it truly is.
43. "In so far as the determinations of the will are its *own* or, in general, its particularization reflected into itself, they are its *content*" (Hegel 2008: 34).
44. On the differences between Hegelian and Kantian metaphysics, see Paul Redding's chapter in this volume.
45. For an illuminating discussion of Hegel's reading of Kant's metaphysics, see Kreines (2015).
46. While this has motivated some readers to classify Aristotle as "determinist," such classification would contradict his claims about responsibility, self-education, and so on.

47. Although Hegel's Kant does not realize this project systematically in the *Metaphysics of Morals* (Hegel 2008: 46), he enables it by alerting the thinker to begin philosophical deduction with the notion of unconditioned self-determining subjectivity and to track the results of its conceptual unfolding. According to Hegel, subjectivity always already contains three dimensions: universality, particularity, and individuality (Hegel 2010a: 527). Furthermore, while objectivity can be deduced from subjectivity (Hegel 2010a: 625), it is defined as subjectivity's opposite. And it is this status of objectivity as nonsubjectivity that enables subjectivity in the first place (Hegel 2010a: 670).
48. See Thompson (2018) and Michael J. Thompson's chapter in this volume.
49. For example, psychological, sociological, and so on.
50. "Where then there is such a difference as that between soul and body, or between men and animals. . . , the lower sort are by nature slaves, and it is better for them as for all inferiors that they should be under the rule of a master. For he who can be, and therefore is, another's, and he who participates in reason enough to apprehend, but not to have, is a slave by nature" (Aristotle 1984, *Politics*: 4274).
51. "As to the exposure and rearing of children, let there be a law that no deformed child shall live" (Aristotle 1984, *Politics*: 4544).
52. "But among barbarians no distinction is made between women and slaves, because there is no natural ruler among them: they are a community of slaves, male and female. That is why the poets say, – It is meet that Hellenes should rule over barbarians; as if they thought that the barbarian and the slave were by nature one" (Aristotle 1984, *Politics*: 4267).
53. "Again, the male is by nature superior, and the female inferior; and the one rules, and the other is ruled; this principle, of necessity, extends to all mankind" (Aristotle 1984, *Politics*: 4274).
54. "Now the proud man, since he deserves most, must be good in the highest degree; for the better man always deserves more, and the best man most. Therefore the truly proud man must be good" (Aristotle 2009: 68).
55. "[B]eauty implies a good-sized body, and little people may be neat and well-proportioned but cannot be beautiful" (Aristotle 2009: 68).
56. Although this might be impossible to tell since we and the agents themselves can err about their morality-guaranteeing motivations (Kant 2002: 43, 44).
57. Regarding Hegel's more concrete appraisal of Aristotle's ethical content, see Novakovic (2017: 24ff).
58. Hegel argues the same happens at the metaphysical level to Aristotle's substance and its accidents. See also Stein (2018).
59. On the relationship between Hegel's normative content and history, see Christopher Yeomans's chapter in this volume.
60. See also Sebastian Ostritsch's chapter in this volume.
61. For an interpretation of the relationship between universality and particularity in Hegel's account, see Andrew Buchwalter's chapter in this volume.
62. For a description of the relationship between undetermined negativity (choice) and determined negativity (content) in logico-metaphysical terms, see Bowman (2013).
63. Hegel's technical term for what may be called the concept's "causality." See also Hegel 2010a: 547-548): "The *particular*, for the same reason that makes it only a determinate universal, is also a *singular* [that is the individual], and conversely, because the singular is a determinate universal, it is equally a particular. . . . In singularity, the earlier true relation, the *inseparability* of the determinations of the concept, is *posited*; for as the negation of negation, singularity contains the opposition of those determinations and this opposition itself at its ground or the unity where the determinations have come together, each in the other."

64. Hegel's solution to the problem of the relationship between normative choice and content is speculative (see Stein 2014) in nature: both objectivity of content and subjectivity of choice are irreducible *and* deduced from their respective opposite. They are the same in being different. The validity of this method cannot be discussed here.
65. A more profound judgment on the relative successes and failures of the discussed accounts should thus rely on an investigation into the nature of philosophical method that goes beyond the scope of the present investigation but will be part of my forthcoming monograph on Hegel's account of free will.

References

- Aristotle (1984). *The Complete Works of Aristotle: The Revised Oxford Translation*, one volume digital edn., ed. J. Barnes. Princeton: Princeton University Press.
- . (2009). *Nicomachean Ethics*, trans. R. Crisp. Cambridge: Cambridge University Press.
- . (2011). *De Anima*, trans. M. Schiffman. Newburyport, MA: Focus Publishing.
- . (2014). *Aristotle's Ethics: Writings from the Complete Works*, eds. J. Barnes and A. Kelly. Princeton: Princeton University Press.
- Bagnoli, C. (2016). Constructivism and the Moral Problem. *Philosophia* 44(4): 1229–1246.
- Bedke, M.S. (2018). Cognitivism and Non-cognitivism, in T. McPherson and D. Plunkett (eds.) *The Routledge Handbook of Metaethics*. London: Routledge, 292–307.
- Bowman, B. (2013). *Hegel and the Metaphysics of Absolute Negativity*. Cambridge: Cambridge University Press.
- Brown, L. (1997). What is 'the Mean Relative to Us' in Aristotle's Ethics? *Phronesis* 42(1): 77–93.
- Chisholm, R. (1964). *Human Freedom and The Self*, The Lindley Lecture. Lawrence, KN: University of Kansas Press.
- Clipsham, P. (2013). In Defense of Anti-Archimedean Moral Realism: A Response to Recent Critics. *Nous* 44(4): 470–484.
- Cohen, G.A. (2003). Facts and Principles. *Philosophy and Public Affairs* 31(3): 211–245.
- de Laurentiis, A. (2018). The Aristotelian Metaphysics of Hegel's "Soul," in G.A. McGee (ed.) *Hegel and Ancient Philosophy: A Re-Examination*. London: Routledge, 115–131.
- Ferrarin, A. (2004). *Hegel and Aristotle*. Cambridge: Cambridge University Press.
- Finlay, S. (2014). *Confusion of Tongues: A Theory of Normative Language*. Oxford: Oxford University Press.
- Förster, E. and YY. Melamed (eds.) (2012). *Spinoza and German Idealism*. Cambridge: Cambridge University Press.
- Gledhill, J. (2011). Procedure in Substance and Substance in Procedure: Reframing the Rawls-Habermas Debate, in J.G. Finlayson and F. Freyenhagen *Habermas and Rawls: Disputing the Political*. New York: Routledge, 181–199.
- Habermas, Jürgen (1993). *Justification and Application: Remarks on Discourse Ethics*, trans. C.P. Cronin. Cambridge, MA: MIT Press.
- Hegel, G.W.F. (1971). *Vorlesungen zur Geschichte der Philosophie*, in *Gesammelte Werke*, Band 18. Frankfurt a.M.: Suhrkamp.

- . (2007). *The Philosophy of Mind*, trans. W. Wallace and A.V. Miller, rev. and intro. M.J. Inwood. Oxford: Oxford University Press.
- . (2008). *Outlines of the Philosophy of Right*, trans. M. Knox, ed. S. Houlgate. Oxford: Oxford University Press.
- . (2010a). *The Science of Logic*, trans. G. di Giovanni. Cambridge: Cambridge University Press.
- . (2010b). *Encyclopedia of the Philosophical Sciences in Basic Outline Part I: Science of Logic*, trans. and ed. K. Brinkmann and D.O. Dahlstrom. Cambridge: Cambridge University Press.
- Henry, D. (2011). Aristotle's Pluralistic Realism. *The Monist* 94(2): 197–220.
- Huemer, M. (2008). *Ethical Intuitionism*. New York: Palgrave.
- Kant, Immanuel (1991). *The Metaphysics of Morals*, trans. M.J. Gregor. Cambridge: Cambridge University Press.
- . (1998). *The Critique of Pure Reason*, ed. and trans. P. Guyer and A.W. Wood. Cambridge: Cambridge University Press.
- . (2002). *Groundwork for the Metaphysics of Morals*, ed. and trans. A.W. Wood. New Haven, CT: Yale University Press.
- . (2006). *Anthropology from a Pragmatic Point of View*, ed. and trans. R.B. Louden. Cambridge: Cambridge University Press.
- . (2012). *Lectures on Anthropology*, eds. A.W. Wood and R.B. Louden. Cambridge: Cambridge University Press.
- Karbowsky, J. (2019). *Aristotle's Method in Ethics: Philosophy in Practice*. Cambridge: Cambridge University Press.
- Kirchin, S. (2012). *Metaethics*. London: Palgrave.
- Korsgaard, C.M. (1996). *The Sources of Normativity*. Cambridge: Cambridge University Press.
- . (2009). *Self-Constitution: Agency, Identity, and Integrity*. Oxford: Oxford University Press.
- Kreines, J. (2015). *Reason in the World: Hegel's Metaphysics and Its Philosophical Appeal*. Oxford: Oxford University Press.
- Kuehn, M. (2012). Kant and Aristotle on Ethic, in J. Miller (ed.) *The Reception of Aristotle's Ethics*. Cambridge: Cambridge University Press, 244–261.
- Kyriacou, C. and R. McKenna (eds.) (2018). *Metaepistemology: Realism and Anti-Realism*. London: Palgrave.
- LeBar, M. (2008). Aristotelian Constructivism. *Social Philosophy and Policy* 25(1): 182–213.
- McDowell, J. (1996). *Mind and World*. Cambridge, MA: Harvard University Press.
- Moyar, D. (2011). *Hegel's Conscience*. Oxford: Oxford University Press.
- Nielsen, K.M. (2012). Aristotle on Principles in Ethics: Political Science as the Science of the Human Good, in D. Henry and K.M. Nielsen (eds.) *Bridging the Gap Between Aristotle's Science and Ethics*. Cambridge: Cambridge University Press, 29–48.
- Novakovic, A. (2017). *Hegel on Second Nature in Ethical Life*. Cambridge: Cambridge University Press.
- O'Neill, O. (1996). *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*. Cambridge: Cambridge University Press.
- . (2004). *Bounds of Justice*. Cambridge: Cambridge University Press.
- Pinkard, T. (2012). *Hegel's Naturalism: Mind, Nature, and the Final Ends of Life*. Oxford: Oxford University Press.

- Pippin, R.B. (1989). *Hegel's Idealism: The Satisfaction of Self-Consciousness*. Cambridge: Cambridge University Press.
- Rawls, John (1995). Political Liberalism: Reply to Habermas. *The Journal of Philosophy* 92(3): 132–180.
- . (1996). *Political Liberalism*, paperback edn. New York: Columbia University Press.
- . (1999a). *Collected Papers*, ed. S. Freeman. Cambridge, MA: Harvard University Press.
- . (1999b). *A Theory of Justice*, revised edn. Cambridge, MA: Belknap Press.
- . (1999c). *The Law of Peoples*. Cambridge, MA: Harvard University Press.
- . (2001). *Justice as Fairness: A Restatement*, ed. E. Kelly. Cambridge, MA: Belknap Press.
- Rowland, R. (2017). The Significance of Significant Fundamental Moral Disagreement. *Nous* 51(4): 802–831.
- Scanlon, T.M. (2014). *Being Realistic About Reasons*. Oxford: Oxford University Press.
- Schwartz, R. (2017). Pragmatic Constructivism: Values, Norms and Obligations, in G. Marchetti and S. Marchetti (eds.) *Facts and Values: The Ethics and Metaphysics of Normativity*. New York: Routledge, 42–59.
- Sedgwick, S. (2012). *Hegel's Critique of Kant: From Dichotomy to Identity*. Oxford: Oxford University Press.
- Stein, S. (2014). Hegel and Kant on Rational Willing: The Relevance of Method. *Hegel Bulletin* 35(2): 273–291.
- . (2018). The Metaphysics of Rational Action: Kantian and Aristotelian Themes in Hegel's Absolute Idealism, in M.J. Thompson (ed.) *Hegel's Metaphysics and the Philosophy of Politics*. London: Routledge, 142–175.
- . (2019a). Absolute Idealism: Hegel, in J. Shand (ed.) *A Companion to 19th Century Philosophy*. Oxford: Blackwell, 336–448.
- . (2019b). Hegel and Aristotle on Ethical Life: Duty-bound Happiness and Determined Freedom. *Hegel Bulletin*. First View. DOI: <https://doi.org/10.1017/hgl.2019.22>.
- Stern, R. (2007). Freedom, Self-legislation and Morality in Kant and Hegel: Constructivist vs. Realist Accounts, in E. Hammer (ed.) *German Idealism: Contemporary Perspectives*. London: Routledge, pp. 245–267.
- Street, S. (2012). Coming to Terms with Contingency: Humean Constructivism about Practical Reason, in J. Lenman and Y. Shemmer (eds.) *Constructivism in Practical Philosophy*. Oxford: Oxford University Press, 40–59.
- Sullivan, R.J. (1974). The Kantian Critique of Aristotle's Moral Philosophy: An Appraisal. *The Review of Metaphysics* 28(1): 24–53.
- Thompson, M.J. (2018). The Metaphysical Infrastructure of Hegel's Practical Philosophy, in M.J. Thompson (ed.) *Hegel's Metaphysics and the Philosophy of Politics*. London: Routledge, 101–141.
- Yeomans, C. (2012). *Freedom and Reflection: Hegel and the Logic of Agency*. Oxford: Oxford University Press.
- . (2015). *The Expansion of Autonomy: Hegel's Pluralistic Philosophy of Action*. Oxford: Oxford University Press.

3 Constraint and the Ethical Agent

Hegel Between Constructivism and Realism

Joshua I. Wretzel

This paper concerns the question of constraint in practical reason, the matter of what sorts of things count as licit limitations on my ethical claimings and doings. On the one hand, constraints are a necessary feature of ethical life: insofar as we wish to uphold any notion of truth about the good, it must not be the case that we are able to claim whatever we like or may do whatever we wish, come what may. On the other hand, it matters what sort of thing does the constraining: insofar as we want to uphold any notion of autonomy in our sayings and doings, *I* must be the author of any practical claiming or doing of mine. I must *commit myself*, not *be committed by another*, to my practical holdings. So the question of constraint in practical cognition turns out to be a question of self-constraint, how it may come to be that the limitations on my sayings and doings are themselves avowed as sayings and doings *of mine*.

In a recent prominent debate on practical constraint, John McDowell and Robert B. Pippin express disagreement over the *source* of practical constraint, while agreeing, broadly, that the constraint must lie within the space of reasons (for it is only within the space of reasons, they hold, that constraints *can* constrain). McDowell argues that practical constraints are present to us as a form of receptivity shot through with spontaneity: they are empirical moral-situational facts available to those who are properly attuned to them. Such beings, McDowell says, are open to a “second nature” of moral reasons and purposes that “are there anyway” (McDowell 1994: 91 *et passim*). For this reason, we shall call McDowell’s position (variously) a “realism”¹ or “second naturalism” about constraint in practical reason. Pippin, for his part, holds a contrasting, “constructivist” view.² He argues that constraint in practical cognition is a largely *social* affair, with one’s practical holdings answerable to the constructed norms of a rational community at a sociohistorical moment.

In what follows, I shall focus on the common historical influence underlying both views. As is well known, they both rely on a broadly Kantian/Hegelian outlook, underwriting their divergent views in a nevertheless common vocabulary of autonomy, spontaneity, reason, sociality, and cultivation (or *Bildung*). Conspicuously absent from their discussions,

however, is an adequate treatment of the concept of *nature* operative in this tradition. McDowell refers, broadly, to a conception of nature that is more expansive than the mechanistic modern scientific view, but he never gives much attention to the overlap between his view and the one on offer in the German tradition. Pippin merely mentions that the philosophy of nature “turns no other wheel” in the Hegelian system, meaning that nature can play no justificatory role within the realm of practical reason. In what follows, I shall argue that this proves to be a costly omission for both McDowell and Pippin. This is because a fuller consideration of the role of nature in both Kant and Hegel alters our understanding of all the key terms of the debate, and reveals a specifically Hegelian conception of practical constraint at odds with those on offer in both Pippin’s and McDowell’s works.

My argument shall proceed as follows. After (I) reviewing the central terms of the exchange between McDowell and Pippin, I show (II) that Hegel never means, in Pippin’s words, to “leave nature behind.” Rather, what first appears as a break between *Natur* and *Geist* turns out to be what I shall call “the continuation of nature by other means,” the perfection of the organic natural process in *Geist*. Our study of that process reveals, I contend (III), how the “nature” of *Geist* both accords with its spontaneity and broadly shapes the structure of practical reason. The key term of this analysis shall be “*der Trieb*,” which Hegel uses to describe the will in its initial stages. Though typically, and not unfaithfully, rendered “impulse” or “drive,” it may also be rendered “shoot,” as in a bamboo shoot. I argue that Hegel employs this sense of the term, as well, to invoke a sense of organic growth and trajectory at work in the development of the will.

Turning, then, to McDowell (IV), I show how Hegel’s analysis of second nature treats it as a rather ambiguous achievement of practical reason. This is because Hegel treats the habituation of practices as a kind of transitional point of the developmental process, a stultification of those practices that, for that very reason, also portends their decay. I close (V) with a reflection on some advantages of thinking of practical constraint in my naturalistic Hegelian terms.

I

The question of how nature informs practical reason ultimately concerns a question of causal forms. Specifically, modern scientific naturalism predominantly relies upon so-called “mechanistic” forms of causality. This means that we may explain the constitution of some entity as an effect of external causal forces acting upon it. Tables, for instance, become what they are by means of the external activity of, say, woodworkers upon them: they shape the various materials into table-like parts and put those various parts together to form a single table from them. The processes of practical reason, however, do not fit neatly into this explanatory form.

For there at least seems to be a kind of practical agency at work there: as we said at the outset, it is difficult to shake the notion that my practical holdings *are mine* in the sense that they result from *my* activity, that I avow them as my own because they are products of *my* practical reasonings. So stated, it would seem as though we are left to choose between one of two disagreeable positions: either I must cling to the naturalist position, in which case I would have to treat the underlying agency of my practical holdings as somehow illusory; or I would have to insist upon the reality of an agency that is nevertheless unnatural or supernatural.

This is the impasse McDowell confronts in Lecture IV of his *Mind and World*. He assigns each horn of the dilemma a “demonic” voice in need of philosophical “exorcism.” On the one hand, the so-called “bald naturalist” believes that the spontaneity of reason must ultimately be explicable in causal-mechanistic terms, while the “rampant platonist,” on the other hand, insists upon a dualistic split between reason and nature. As McDowell sees it, the impasse between these two views arises from an unjustified and narrow, though shared, presupposition about our understanding of nature: that it is coextensive with the “realm of law,” or that the term “natural” is applicable only to those things that are, or may potentially be, couched in terms of mechanistic causal relations.

McDowell thus introduces the notion of “second nature” to provide the necessary purgation. He motivates this by describing it as the Aristotelian idea, of which the bald naturalist is “forgetful,” that the realm of nature is broader than the realm of law. Second nature includes, in other words, not only mechanistic causal processes. It also allows that the development of one’s rational capacities, or more broadly, the actualization of innate potentiality, be understood *on those terms* as itself a part of nature.³ On this view, then, the explanation of human spontaneity does not need to reduce to causal law in order to count as natural, nor does it require appeal to some supernatural realm in order to count as autonomous. Rather than reducing or transcending nature, it is an *expansion* of nature: as McDowell likes to put the point, “second nature is nature too” (McDowell 2007: 395).

McDowell suggests a rather robust explanatory and even justificatory role for second nature in practical reason. He argues that practical reason must involve a kind of answerability to experience, similar to what one finds in his discussions concerning “objective purport” in the theoretical sphere. Practical reason only finds itself answerable or sensitive to a different class of empirical happenings: it is still one he characterizes in terms of a receptivity shot through with spontaneity. It is specifically a class of moral-situational facts, an openness to a world imbued with moral values. McDowell refers to this class of empirical happenings, too, as “second nature” and says that one is “open to” second nature just in case one receives a “proper upbringing” (McDowell 2007: 91) enabling the right kind of attunement to it.

The “robustness” of this view comes not only from McDowell’s view that the second-natural, moral happenings “are there anyway,” (McDowell 2007: 91) but also from the normative heft of phrases like “proper upbringing.” The former claim invites a realist, empiricist-inflected understanding of constraint in practical reasoning: these moral phenomena must, it would seem, “float free” of communal understandings and reasonings about them, on pain of reducing to a “frictionless” coherentism. And when taken together with the claim about propriety of upbringing, it is hard to avoid attributing to McDowell some of the boldest possible theses about *Bildung*. For instance, the invocation of propriety suggests the view that there are determinate answers to questions about what makes a human a good of its kind; that those answers are not necessarily reducible to what a community finds reasonable at a particular sociohistorical moment; and that there are concrete developmental processes by means of which a human may constitute itself as a good of its kind.

Pippin, whose views share much in common with constructivism, focuses his critique on these naturalist and realist elements of McDowell’s project. Pippin holds that Hegelian *Geist* – broadly, Hegel’s term for the processes and products of human mindedness, and of which practical reason is a part – is solely and thoroughly a product of its *own* activity. It follows, for Pippin, that any licit philosophical account of *Geist* may only be given in terms of itself. This is because of a twofold fealty to Kant that Pippin finds at work in Hegel. For one, practical holdings must result from a thoroughly autonomous function of practical reason, and appeals to nature undermine that autonomy; secondly, Kant’s critical limitations on the reaches of intellects like ours precludes license to determinate knowledge claims about the way things anyway are.

The views of Pippin’s Hegel thus dovetail nicely with those of the Kantian constructivist, though he expands the “monological” reasoning of the Kantian to include both social and historical elements. On this view, there is nothing transcending the rational normative holdings of a socio-historical community that could provide a licit constraint on practical reason: appeals to the independent reality of moral norms are epistemically illicit, while appeals to human nature place the ground for practical holdings beyond the reach of human autonomy.

Pippin’s responses to McDowell are thus variations on these broadly Kantian themes. He advances two central theses against McDowell’s view. The first is that second nature, or any appeal to nature at all, can have no explanatory import in the realm of *Geist* at all. Since *Geist* has a self-active structure, it may be explained solely as a result of its own activity. He thus holds we must “accept and work within a basic distinction . . . between *Geist* and *Natur*” (Pippin 2002: 68), where that distinction highlights the fundamentally *historical* orientation of the inquiry: in his view, the study

of *Geist* commits us to an examination of processes and practices that are achievements of specifically *human* activity. He writes:

The question is: how does a claim of reason, or a commitment to an ideal or goal, become part of the fabric of some form of life? How is the achievement of a genuinely common mindedness . . . possible? How could there be a common mindedness such that our reactions to conduct that is objectionable have become so intimate and such a part of the fabric that the conduct being the sort of conduct that it is counts *thereby* as reason enough to condemn it? But to understand any of this, we don't need to know anything about growth, organic life, cultivated nature, and so forth. We need to understand "the labor of the Concept" in time.

(Pippin 2002: 68)

Once we set our philosophical sights on *Geist*, Pippin holds that we must, in his words, "leave nature behind." Since the problems that confront us are of a different sort than those we find in the realm of *Natur*, we must adopt a different set of conceptual tools to explain *Geist* in the terms adequate to it.

Pippin's second thesis concerns attempts to violate the explanatory distinction between *Geist* and *Natur*. He maintains that any naturalistic explanation of *Geist* must be so broad as to be uncontroversial – and thus ends up doing no real explaining – or offers something more substantive, in which case it violates the self-active or autonomous structure of *Geist*. For any such view, as Pippin sees it, would require McDowell to take on board both claims about what it is "natural" for humans to do and believe, and (thereby) claims about the "unnatural" elements of competing views. Once we do that, Pippin thinks, we've replaced the rational-autonomous grounding of practical holdings with a kind of practical "givenness" that we must accept, dogmatically, as a feature (or features) of human existence.

In subsequent exchanges, McDowell insists upon a *minimal* role for second nature as a mere reminder that the term "natural" need not be coextensive with "subsumable under causal laws." In his view, it does not require us to make any evaluative claims about better or worse realizations of spontaneity by appeal to some natural order. He agrees with Pippin's assessment of the autonomy of reason in this regard. But he also thinks that spontaneity must itself be conceived as part of nature in order to ease the disquiet of the bald naturalist. Pippin, for his part, thinks that McDowell's assent on the matter of autonomous reason is difficult to square with his insistence upon the moment of *receptivity* in practical reason, his view that second nature involves an acquired sensitivity to moral facts, circumstances, and so on. Once again, the problem of the *substance* of the view recurs: either it refers to a very general set of moral contents, in which case it amounts to little more than a truism (*of*

course moral reasoning should, for example, be sensitive to context) or it informs moral reasoning with substantive constraints, in which case it outstrips the autonomy of practical reason. Better, Pippin says, to leave nature out of it altogether.

II

Nevertheless, it remains difficult to square Pippin's claims about "leaving nature behind" with the views of nature one finds at work in Kant and Hegel. For it is not so easy to find Kant and Hegel insisting on Pippin's dualistic split between *Natur* and *Geist*: Pippin himself thinks this distinction functions merely "imagistically" (Pippin 2002: 68) when it arises. That is, for Pippin, the terms will merely denote realms of explanation, the relevant explicanda and explicantia adequate to each. This is the larger claim motivating his critiques of McDowell: we do not invoke nature in order to answer questions about *Geist* because the explanatory forms adequate to each are *just different*. This is also the motivation underlying his view that *Natur* must ultimately stand to *Geist* as condition to conditioned⁴ (though he hastens to add that the former "radically underdetermines" the latter [Pippin 2002: 69]). It seems that this must be his way of dealing with the fact that, however radical the explanatory shift from *Natur* to *Geist*, they both ultimately subsist within a single systematic framework for Hegel.

Still, it is difficult to see how this talk of conditions does not ultimately conflict with Pippin's insistence upon the Kantian structure of spontaneity as unconditioned or as self-conditioning, no matter how underdetermined the conditioned may be.⁵ Moreover, if he has even a broadly Hegelian notion of "condition" in mind, then he cannot accommodate his claims about the independence of *Geist* from *Natur*. Hegel has much to say about explanatory forms that treat the conditioned as independent of the underlying condition: he calls them "force-expression" explanatory forms and is critical of them to the point where he questions whether they ultimately explain anything at all.⁶

Hegel's view, by contrast, is that the condition remains present within the conditioned and, particularly in the relationship between *Natur* and *Geist*, the conditioned appears as the "truth" of the condition.⁷ That point, of course, requires a good bit of justification. To foreshadow a bit: it means that McDowell's "reminder," that "second nature is nature, too," ends up closer to Hegel's view than the suggestion that we "leave nature behind." This will give rise to the further problem, though, of how much the Hegelian version of that claim could mean for McDowell's broader project. For it is rooted not only in an understanding of nature that is unlikely to meet with the assent of any so-called "bald naturalist" but also in a conception of *second* nature that both diverges from McDowell's and casts a skeptical light on the role McDowell assigns to it.

The particular issue with nature concerns Hegel's use of a rather expansive conception of causality, one that the bald naturalist may well find problematic. For Hegel employs not only the mechanistic modern scientific form of causality but also holds that nature includes so-called "organic" forms of causality, according to which things become what they are by means of their *own* activity *upon themselves*. For this reason, Hegel would agree with McDowell that nature is not coextensive with the realm of law. But once we introduce this alternative form of causality, we also find ourselves with a rather sizable lacuna we would need to fill before gaining license to the claim that "second nature is nature, too," especially if the thought is that Hegel might serve as an ally in this context.⁸ This is because the notion of second nature relies rather heavily on this second organic form of causality. So license to the claim that "second nature is nature, too" requires our first having license to the claim that "organic nature is nature, too."

Gaining that license is, however, problematic in its own right. For Kant and the post-Kantians questioned whether intellects like ours could even grasp the strange causal form of organic nature. As Kant argues, in order to grasp the structure of self-activity, we have to grasp how an entity can be both cause and effect of itself (Kant 2000: 243/1968: 5:371). And that, itself, requires a complex and, as it turns out, literally counterintuitive metaphysics of development/change. Intellects like ours, Kant claims, are capable of grasping change only according to the *mechanical* mode: one in which changes of the whole are effects of the activity of the parts. But grasping the self-causality of organic entities requires an ability to grasp how the activity of the whole is *also* cause of the parts. For instance, here is how Kant describes the organic activity of plants:

This plant first prepares the matter that it adds to itself with a quality peculiar to its species, which could not be provided by the mechanism of nature outside of it, and develops itself further by means of material which, as far as its composition is concerned, is its own product.

(Kant 2000: 243/1968: 5:371)

While there is a sense in which the parts of organisms bring about the whole, there must also be a sense in which the whole *precedes* and brings about the parts. But if the parts must constitute the whole, it is unclear how the whole could possibly constitute the parts in turn. It would seem as though the whole, as cause, would have to precede the whole as effect (i.e., so that it would constitute the parts that would, in turn, constitute it). We are thus seemingly left with the paradoxical result that the existence of the whole must temporally precede itself.

Kant deals with this problem by attributing it to the limitations of our specifically temporal form of intuition: this is only problematic, in other

words, if we try to conform organic causality to the form of temporal succession. On the other hand, if we allow that there may be forms of causality that do not conform to the temporal structure of intuition, then the paradoxical result disappears. This comes with the further caveat, however, that intellects like ours can have no knowledge, or only very limited knowledge, of the structure of organic entities. As I have argued elsewhere (Wretzel 2018), it mattered a great deal to the post-Kantians that Kant be proven wrong about this limitation of intellects like ours. This is because of a parallel between the structure of organic entities and that of human spontaneity: both exhibit the organic form of self-causality, and so are shrouded in the same mystery as concerns knowledge of their functioning. This is behind, for example, the well-known claims concerning limitations on self-knowledge: as we see in §25 of the B-deduction, the same temporal limitation of intuition explains why my own act of spontaneity is not available to me *as such* (Kant 1958). It is also why Hegel, and others, placed so much emphasis on *organicism* in their work: they thought it held the promise of founding what Peter Gay called “the science of freedom,” of making spontaneity continuous with nature.⁹

In order to make sense of organic self-activity, Hegel formulates the notion of the “concrete universal.” This is a very complex feature of Hegel’s thought, and we shall develop it a bit more fully later. For the moment, however, it suffices to say that concrete universals refer to entities, not as a whole or as a concatenation of parts, but as an *activity*: it is a process of unity [*Einheit*] and bifurcation [*Entzweiung*] of parts and whole. In the *Philosophy of Nature*, he writes:

Organic being is actual being which is self-maintaining, and which runs through the process in its own self. It is its own universal, and sunders itself into its parts. These parts sublate themselves by bringing forth the whole. . . . Consequently the individual . . . nourishes itself from itself in that it consumes itself as its own inorganicity. By this, however, it *divides itself within itself*, into its members, i.e. *entzweit* its universality into its differences.

(Hegel 1970: §344z., 47/2015: 9:374)

An organism undergoes a process of bifurcation and reunification that constitutes its life activity, so that, while the whole tree, say, may differ from moment to moment, the “treeness” of the tree persists throughout. Just as it was for Kant, so too does Hegel hold that spontaneity is ultimately an instance of the same self-causal structure he finds in organic nature. This is why Hegel will speak favorably of “the concept of the living mind which, in a necessary manner, differentiates itself within itself and returns out of its differences to unity with itself” (Hegel 2010: §379z., 6/2015: 10:13–14). And why he will argue that “just as in the living creature generally, everything is already contained, in an ideal manner, in

the germ and is brought forth by the germ itself, not by an alien power, so too must all particular forms of the living mind grow out of its concept as from that germ" (Hegel 2010: §379z., 7/2015: 10:14). And why he will conclude that "mind, as it is something true, is also something living, organic, systematic; and only by knowing this its nature is the science of mind likewise true, living, organic, systematic" (ibid.).

This is also how to understand Hegel's claims, that Pippin cites elsewhere,¹⁰ about the rupture between nature and mind: that rupture is, itself, a bifurcation within organic nature, one necessitated by an irresolvable contradiction within nature itself. As Hegel sees it, nature is characterized as the Idea in its so-called "self-externality." What this means for our purposes is that, for all the internal purposiveness exhibited by organic nature, it remains, in a sense, "external" to itself. Natural entities are *unaware* of their own processes of self-development, are not a product of their own *agency*. Thus, Hegel writes that, even in the animal, "[T]he soul is not yet for the soul, the universal as such is not for the universal" (Hegel 2010: §381z., 11/2015: 10:20). It is for this reason that mind represents, for Hegel "the Idea's returning . . . into itself from its other" (ibid.) Though it is a *break* from nature, it also represents a certain *perfection* of it. In a moment of Hegelian irony, nature must abandon itself in order to perfect itself.

III

Since neither Pippin nor McDowell give due weight to the complex and complicating prominence of organic nature in Kant and Hegel, they appear to argue under the unjustified presupposition that if nature is *not* coextensive with the realm of law, then it is a concatenation of the realm of law and second nature. They thereby fail to see how figures like Kant and Hegel think that the spontaneity of mind is an outgrowth of nature, what we may call the continuation of nature by other means. According to this view, then, the spontaneity of *Geist* represents a certain *perfection* of organic activity, a certain capacity to more fully constitute itself than (other) organic entities.

But this raises for us, once again, the question of practical constraint. For even after introducing this more expansive understanding of nature, the question recurs: if all "natural" turns out to mean is "self-causing," do we really get that much by speaking of spontaneity in naturalistic terms? Is this not just another way of stating the claim that spontaneous thought cannot recognize any external constraint upon itself? And is it even possible for the claim to be any more robust than that *without* also adopting just such an external constraint?

Broadly, there is good reason to say that, for Hegel, "spontaneity" *does* mean something more than *merely* "self-causing": that it informs thinking with a content that constrains it, though not in a way that violates

the integrity of autonomous thinking. For the constraint only becomes heteronomous when it is *mechanistic* in operation, something impacting the movement of thought from without. For Hegel, however, thinking of spontaneity in terms of the structure of the organism allows us to make intelligible just *how* some constraint could enter into thought as a product of itself: it is a mode of what Kant calls “orientation” in thinking. In his famous essay on that topic, Kant speaks about the felt “need” of reason – itself a topic that would be of great interest for Reinhold and the post-Kantians – as follows:

Reason does not feel: it has insight into its lack and through the *impulse* [*Trieb*] *for cognition* it effects the feeling of a need. It is the same way with moral feeling, which does not cause any moral law, for this arises wholly from within reason; rather, it is caused or effected by moral laws, hence by reason, because the active yet free will needs determinate grounds.

(Kant 2001: 12/1968: 8:139)

The key word in this passage is “impulse [*Trieb*].” In the passage just cited, Kant employs the term to describe a motivating force, within reason, to meet its self-lack. This is not a *mechanical* activity, since it arises from within reason itself: it is, as Kant says, “an insight into *its own* lack.” But this can only mean that reason possesses within itself, however inchoately, a *telos*, a sense of the sort of thing it is supposed to be. It thus formulates, from that sense, a conception of itself as an end towards which it strives in its subsequent activity. In this context, the self-orienting activity of reason is perhaps better understood according to a second sense of the word “*Trieb*” in German: it also refers to a “shoot,” as in a shoot of a plant. It describes, in this sense, a direction or trajectory of growth from out of itself. Considered as such, the impulses of which Kant speaks provide reason with a trajectory, a directionality to guide itself in thinking.

The invocation of the impulse as an orienting feature of practical reason occupies no less a prominent place in Hegel’s thought. Consider, for instance, the following passage from the Introduction to the *Philosophy of Right*:

The system of this content, as one glimpses the immediate will, is merely a medley and manifold of impulses, of which each is one of mine next to the others, and is simultaneously something universal and indeterminate, satiable in many ways. It is therein that the will, in this doubled indeterminacy, gives itself the form of singularity; it is resolution, and only as resolving will generally is it an actual will.

(Hegel 1967: §12, 26/2015: 7:63, translation slightly altered)

In this initial moment of disorientation, the will is beset by a manifold of impulses, pushing it in all directions. In order to choose from among

these many impulses, the will must, in Hegel's words, "resolve itself" into a point and act upon some one of them. But we should not take the moment of resolution to be the application of some external faculty, the will, giving form to an indeterminate and opposed content. He continues:

As an alternative to *etwas beschliessen* [to resolve on something], the German language also contains the expression *sich entschliessen* [to resolve itself]. This expresses the fact that the indeterminate character of the will itself, as itself neutral yet infinitely prolific, the *primordial germ* [*Urkeim*] of all existence, contains its determinations [*Bestimmungen*] and purposes *within itself* and simply *brings them forth out of itself*.

(Hegel 1967: §12 Anm., 26/2015: 7:63, my emphases)

The will, Hegel says, only develops a determinate form insofar as it develops itself from out of the relevant contents: specifically, the impulses. This is to say that the will is not a ready-made faculty that we find present *a priori* within us. It is, rather, a pragmatic outgrowth of a fundamental feature of the human condition: that one needs to choose between urges that are potentially incompatible with one another, and that all make a claim, however inchoately, to a need for fulfillment. It follows that, for Hegel at least, the fundamental feature of practical life is not one's membership in a sociohistorical normative community, nor one's sensitivity to moral-situational facts but that we face a problem of choosing between competing impulses. Indeed, Hegel notes that the process of cultivation, *Bildung*, so important to Pippin and McDowell, only comes on the scene *subsequently*, as one begins to recognize the choiceworthiness of satisfying some impulses over others. But even at that point, the trajectory of development remains unsettled, and the orientation of moral reasoning will have to adjust itself before it takes on the proper shape of a *Philosophy of Right*. This is because the kind of reasoning that would weigh impulses against one another is, at least initially, rather arbitrary. We have to know what *makes* the satisfaction of some impulse choiceworthy, and we cannot do that unless we have some concept of the end towards which our choices are aiming: that is, a concept of the good. And we cannot have *that*, Hegel thinks, unless we have a concept of the sort of thing for which this choice would be good: that is, we need a conception of *the human*. Only from *that* point does it make sense to speak of the choiceworthiness of things, for only at that point do our choices become more than arbitrary: they are *directed, oriented*, towards some conception of the good.

With this development, Hegel articulates how it is that, for *Geist*, "the universal as such is . . . for the universal": the human acts with a conception of itself as human, with some notion of what it is *supposed* to be. One thus seeks to become a good of its kind *by actually willing it*. Again, this

is what distinguishes *Geist* from *Natur*: even an advanced organic entity may only become a good of its kind *indirectly*, as it were *blindly*. Nevertheless, the activity of *Geist* in this case still bears the mark of organic nature within itself. For it is only insofar as one senses a bifurcation or differentiation between oneself and one's self-conception that one undertakes to act. The will, so conceived, expresses the agent's impulse or drive to *unify* itself with its self-conception.

The structure of differentiation and unification in this account of the will also mimics the structure of the impulse as Kant describes it. In this practical context, reason has insight into its lack – a question of what one ought to do – and so constructs, from out of itself, an end towards which it aims. The conception of the good thereby allows practical reason to “orient” itself in thinking. As Hegel says:

In the demand for the *purification* of impulses there lies the general notion that they should be freed both from their form as immediate and natural determinations, and also from the subjectivity and contingency of their content, and so brought back to their substantial essence. The truth behind this vague demand is that the impulses should become the rational system of the will's volitions. To grasp them like that, proceeding out of the concept of the will, is the content of the philosophical science of right.

(Hegel 1967: §19, 28–29/2015: 7:70)

The key phrase in this passage is “concept of the will,” since the “concept,” in Hegel, expresses the logic of the concrete universal. The relevant feature of the concrete universal here concerns the process underlying its formation, in contrast to that of so-called “abstract universals.” These latter are formed by means of abstraction from particular objects of sense-experience: we form a collective term – “rock,” say – to refer to a general class of empirical objects. By contrast, concrete universals serve as “ideals” of a sort that precede, in almost platonic fashion, the instances that fall under them. We thus employ concrete universals whenever we speak, for instance, of an ideal friend, partner, job, life, and so on. These may be rather adumbrative in structure, and so always vulnerable to critique and revision, but they remain in a sense always “ahead” of their realization.

So in the passage just cited, when Hegel speaks of the impulses “proceeding out of the concept of the will,” he means that we should consider our impulses with respect to an *ideal* of the will, and that we allow our actual willings to realize that ideal as far as possible. But this also means that the will is not, itself, *opposed* to the impulses, a counterforce suppressing the impulses from without. It is, instead, an impulse of a higher order, one that is aware of itself, in which the universal of the will is *for itself* a universal. The development of the will represents, in

other words, a moment of the broader perfection of the organic process in *Geist*. To grasp the impulses in terms of the concept of the will is to formulate a bifurcation between the will as-is and the will as a good of its kind, and to orient one's willings toward their unification. This is how practical reason fills itself with content, becomes more than a merely formal procedure.

IV

Hegel thus never really "leaves nature behind" in *Geist*. Rather, what emerges from this analysis is the notion that natural processes *perfect* themselves in *Geist* by developing awareness of themselves. Nature thereby continues to inform *Geist* even in the wake of the "breaks" with nature of which Hegel speaks.

At this point, however, we may well find Pippin's rejoinder to second-naturalism applicable to this view as well. Once again, the question concerns the work that any appeal to nature could possibly be doing in the realm of practical reason. Either it refers to a very general set of constraints, in which case the appeal turns out not to do much work; or it refers to a substantive set of constraints, in which case the appeal outstrips the autonomy of practical reason. And it seems as though the first horn of this dilemma would be the most relevant, here: since the structure of practical reason, in Hegel, maintains the *rational* source of all moral law, it does not seem as though one gets too much from the invocation of nature in this realm. It does not, in other words, inform practical reason about what sorts of practical holdings are the "natural" ones (and so right, not by the light of reason, but by the force of nature.)¹¹ On the other hand, Hegel's naturalistic approach to *Geist* does inform the systematic underpinnings of those practical holdings with a rather robust set of substantive contents. For instance, Hegel's is a view that *demonstrates* the spontaneity of the subject. His system does not take on spontaneity as a pragmatic assumption or as a reflective judgment, but as a *result*. This constrains the broad structure of moral reasoning in a rather determinate fashion: it shows that, whatever the ideal we might uphold as orienting our practical outlook, it must necessarily involve the rational autonomy of the subject. To do otherwise would violate what is, in Hegel's view, a demonstrable *truth* about human nature.

Still, we might imagine a further response questioning the pragmatic value of such a view, beyond straightening out some confusion over historical ideas that have long since run their course. For one, Hegel's view relies on a conception of nature that antedates Darwinism and belongs, so far as I know, to no serious school of research in contemporary biology. Especially since this contribution belongs to a debate in which both participants are seeking "the best approach to Hegel for us,"¹² it seems

fair to ask whether Hegel's account, as I interpret it, may transcend the historical context in which it first appeared. I think it may, and for at least two reasons. First, as we know, McDowell himself relies on a rather expansive view of nature to serve as a backdrop for his "reminder" about second nature. One way to view Hegel's claims as I have interpreted them is as filling in that backdrop, shedding some light on what picture of nature might be capable of underlying the claim that "second nature is nature, too."

Secondly, although the point requires a fuller defense than I could possibly give it here, the version of Hegelian naturalism I am defending actually buttresses one of the broader aims of Pippin's philosophical project and provides a more powerful antidote to perhaps its most vociferous opponent. I am speaking of his defense of what he calls "the persistence of subjectivity," (Pippin 2005) the notion that free willing autonomous subjectivity remains a viable, if imperfectly realized, ideal of modern life. It is a view challenged by the increasingly strident, almost ironically dogmatic propagation of an outlook we may call "Foucauldian positivism." Those upholding this view think autonomous subjectivity is an artificial construct, that the purportedly free willing subject is, in fact, beset and undermined by the autochthonous and automatic functioning of power upon it. As is well known, Foucault's work expresses a heightened form of dissatisfaction with modern institutions, one that appears also in the work of Nietzsche and Heidegger. What is less well known, however, is that both Nietzsche and Heidegger regularly voice their own dissatisfactions in a naturalistic language that shares a common ancestry with Hegel. Thus, Nietzsche will speak of the "slave morality" that "needs, physiologically speaking, external stimuli in order to act at all" and whose "action is basically a reaction." And he will contrast this to "the noble method of valuation" that "acts and grows spontaneously" (Nietzsche 2006: 20). Heidegger, for his part, will speak of the "*Gestell*" of modern technology in terms of a "modern physics" that "sets up nature in advance" (Heidegger 1993: 326), and holds this in contrast to the Greek "*physis*," which studies "the arising of something from out of itself" (Heidegger 1993: 317). Finally, this is also a terminology that regularly appears in Foucault's work, as when he speaks of the civilizing "mechanisms" of power that impinge upon the bodies of individuals from without. Seen in this light, there is much that may be said, emerging from Hegelian analyses like this one, about the contrast between the mechanistic power that distorts and perverts the individual and the organic spontaneity by means of which it becomes what it is.¹³

V

Turning our attention back, now, to McDowell, the foregoing analysis allows us to address the questions of what conception of nature might

underwrite the claim that “second nature is nature, too.” Especially insofar as we wish to invoke Hegel as an ally, the short answer is that nature must be, at the very least, a concatenation of the mechanistic and the organic.¹⁴ For the structure of organic causality, as we have seen, represents the germinal form of autonomous practical reason; and the entire point of grouping second nature together with nature is to ease a particular philosophical anxiety about the compatibility between practical freedom and the naturalistic outlook. We thus get the claim that second nature is nature, too, insofar as we think of second nature in terms of the self-development of practical reason. This much McDowell gets right by invoking the Hegelian notion of “*Bildung*” to describe, in part, his notion of second nature. But McDowell, we recall, refers to both *Bildung* and the *gebildet* being “open to” a realm of moral-situational facts as belonging to second nature. It bears mentioning, then, for reasons that will become clear in a moment, that Hegel restricts usage of “second nature” to the latter case. He thinks of it as a kind of ease of ethical life, in which one’s conception of the good is so fully reflected in one’s actions that it *seems* as though one is realizing one’s concept “blindly,” like the animal organism. In the practical achievement of second nature, Hegel thinks that the deliberative processes behind both the formation of that conception and the customs that will best realize it slip into the background, while the practice of actually *living out* those customs comes to the fore. It thus represents a *stasis*, a coming to rest of the developmental process, something like what we have come to call a “reflective equilibrium.” And in the remainder of the *Philosophy of Right*, Hegel develops an account of the ideal structures of the modern state that might guarantee the conditions for perpetuating this *stasis*. The notion of second nature, as an achievement of the developmental process, thus appears itself as a kind of ideal, a point where one’s self-conception no longer needs to go beyond itself to find itself.

But as so frequently happens in Hegel, there is an irony at work here. If especially *organic* nature is defined by its *process*, and *Geist* by its organicism, then how could its *cessation* count, simultaneously, as the point at which *Geist* is most like nature? In the same way that nature must flee itself in order to complete itself, so too does it seem as though *Geist* leaves nature behind at precisely the point where it seems most “natural.” How, then, are we to navigate this matter? On the one hand, Hegel of course associates second nature with *habit*. And as Julia Peters (2016) has noted, the habituation of practices occasions an ultimately emancipatory effect: freed from the taxing labor of mastering some practice, *Geist* may then set its sights on other, perhaps grander tasks. In this case, Hegel thinks of second nature as the beginning of a process in which the spirit of a people “perfects” itself as a nation and so may, from that point, free itself in order to consider itself with respect to world history. But on the other hand, in the *Philosophy of Right*, Hegel

closes a commentary on second nature with the following, rather ominous thought:

It is true that a man is killed by habit, i.e. if he has once come to feel completely at home in life, if he has become mentally and physically dull, and if the clash between subjective consciousness and mental activity has disappeared; for man is active only in so far as he has not attained his end and wills to develop his potentialities and vindicate himself in struggling to attain it. When this has been fully achieved, activity and vitality are at an end, and the result – loss of interest in life – is mental or physical death

(Hegel 1967: §151z., 261/2015: 7:302).

For all of the emancipatory potential of second nature, Hegel also characterizes it in terms of *mechanistic* nature, or perhaps more precisely, as the *mechanization* of the organic, developmental process. The self-activity characteristic of the organic process flees the habit as it becomes *automatic*, something unreflectively done. The more the attention of *Geist* shifts from ethical life to the broader matters of world-historical scope, the easier it is, also, to take that form of life for granted, to treat the self-conception as given and the practices that realize it as a matter of course. But that marks a shift in attitude towards the rules, a change of orientation. I no longer adopt a self-conception or a series of habits because I endorse them or see myself reflected in them, but just because I adopt them: they represent what he calls “positivity” – they are taken for granted as true and adopted as the sort of thing “one does,” not (any longer) the sort of thing “I avow.” In this way, the ease that accompanies the reflective equilibrium of second nature also marks the beginning of its dissolution.

Hegel’s view of second nature thus represents a challenge to McDowell’s just in case McDowell fails to account, adequately, for the ossification of ethical practices in his appeal to moral-situational facts. The worry would be that these received “facts” would be akin to Hegel’s “positivity,” an ossified practical holding that one has come to take for granted as true. Now to be sure, McDowell (2001) does speak, in another place, of these facts as “projections” of a rational, deliberative process onto the world, insisting that these projections “have to be earned.” But there are, of course, all kinds of ways that practical holdings could be earned, and not all of them are suitable to underwrite the *permanence* of second natural habit. For instance, one could become habituated to some practice on the ground that it was the best available option at the time at which one sought out its justification, and after many years, nothing came along to sufficiently challenge that holding. Or one may have become habituated to some practice while seeking out its justification only in the company of those who are similarly habituated. Now of course there is the familiar, pragmatic mantra that one’s habits must be vulnerable to

rational critique and revision. But it is questionable whether these practices could count as *second-natural habits*, since these are defined by their being unreflectively – or perhaps better, “post-reflectively” – held. Again, what is supposed to be “natural” about second nature is precisely my *not* scrutinizing my holdings, but my ability to realize my self-conception “blindly.” It would thus seem as though, if we wish to argue the point on Hegelian terms, we would have to choose between second-natural holdings and holdings subject to rational critique and revision.¹⁵

VI

According to the foregoing analyses, then, neither Pippin’s “leaving nature behind” nor McDowell’s “second nature is nature, too” adequately express Hegel’s views on nature and practical reason. On the one hand, the processes constitutive of *Geist*, and so of practical reason, do not break with the processes of nature but rather perfect them. And on the other hand, insofar as “second nature” refers not to those processes, but to their stultification, we include within the realm of nature things that are becoming or have become “unnatural.” It is for these reasons that I introduced my alternative suitably pithy apothegm that “*Geist* is the continuation of nature by other means.” Underlying this claim is the view that processes of organic nature shape the function of practical reason without encroaching upon its autonomy. It would thus be wrong to conclude, with Pippin, that Hegel’s *Philosophy of Nature* “turns no other wheel” in his system. Indeed, it is perhaps best that we do away with the metaphor of turning wheels altogether. For the case with Hegel is rather this: that the philosophy of nature is the seed from which the philosophy of mind germinates. *Geist* is rather the *outgrowth* of nature, a shoot which strives towards its own maturation by means of its own activity.

Notes

1. McDowell (2001) calls his position a “quasi-realism” for reasons we shall examine more fully later.
2. Although Pippin himself seems to disagree with this labeling. See Pippin (forthcoming).
3. That is, one may understand this process as natural without needing to show how it supervenes on some autochthonous, mechanistic-causal process.
4. “Given the unbelievable variety in human culture, it seems safe to say that first nature radically underdetermines, even while it conditions, any second nature” (Pippin 2002: 69).
5. Or at least, not without taking on board a much more robust notion of nature, such as the one I defend in what follows.
6. See Kreines (2004, 2015).
7. This view of the relationship has attained to a recent prominence in the field of Hegel studies. See Ng (2016) and Yeomans (2012).

8. McDowell must be aware of this, and I do not think it necessarily belongs to the tasks of his overarching theme – i.e. playing with suitable frameworks for investigation – to address this lacuna. My point is, rather, this: I do not think that a mere reminder about second nature will be sufficient, on its own, to exorcise the demon of bald naturalism. But if our aim is only to adopt an alternative framework with the hope that we may eventually appease the bald naturalist, then Hegel gives us a pretty good sense of the details of the framework, the sorts of things we'd need to take on before claiming license to claims like "second nature is nature, too."
9. I'm referring, of course, to the subtitle of the second volume of his classic, *The Enlightenment: An Interpretation* (Gay 1996).
10. See, in particular, the analysis in chapter 2 of Pippin (2008).
11. Of course, Hegel does hold some views like this as regards, e.g., the "natural" intellectual limitations of the woman. But commitment to the form of Hegelian naturalism, as I have spelled it out here, does not entail commitment to that claim or any similar ones.
12. This is a paraphrase of what McDowell (2002: 271) says in his response to another essay: namely, that he seeks "the best approach to Kant for us."
13. I am aware that, of the many things to be said in defense of this view, one will have to concern the post-humanist anti-essentialist who would bristle at the suggestion that an individual might "become what one is." For the moment, though, I hope it suffices to show *that* the naturalism I defend is, again, no mere historical relic of a bygone era. Just *how convincingly* it transcends that role is something that, again, I cannot argue at the moment.
14. Though strictly speaking, Hegel would say that it is a concatenation of the mechanistic, *the chemical*, and the organic. I overlook the chemical here because Hegel does not, to my knowledge, frequently refer to it when speaking of the place of nature in practical *Geist*.
15. For what it's worth, I don't know that Hegel would choose either as an ideal. It seems, rather, that Hegel would view the decay of a second natural order as something of an inevitability, and focusing too closely on the revision and reestablishment of habits in the midst of the decay may rather mask a deeper irrationality: a felt need to maintain a self-conception that is, in fact, revealing its inadequacy to us. In this case, it would seem rather more a desperate clinging than an acceptance, a "letting be" of the process of decay.

References

- Gay, P. (1996). *The Enlightenment: An Interpretation*, 2 vols. New York: W.W. Norton and Company.
- Hegel, G.W.F. (1967). *Philosophy of Right*, trans. T.M. Knox. Oxford: Oxford University Press.
- . (1970). *Philosophy of Nature*, trans. A.V. Miller. Oxford: Oxford University Press.
- . (2010). *Philosophy of Mind*, trans. M. Inwood. Oxford: Oxford University Press.
- . (2015). *Werke in Zwanzig Bänden*, 14th edn. Frankfurt a.M.: Suhrkamp.
- Heidegger, M. (1993). *Basic Writings*, trans. and ed. D.F. Krell. San Francisco: HarperCollins Publishers.
- Kant, I. (1958). *Critique of Pure Reason*, trans. N.K. Smith. New York: The Modern Library.
- . (1968). *Kants Werke*. Berlin: De Gruyter.

- . (2000). *Critique of the Power of Judgment*, trans. P. Guyer and E. Matthews. Cambridge: Cambridge University Press.
- . (2001). *Religion and Rational Theology*, trans. G. di Giovanni and A.W. Wood. Cambridge: Cambridge University Press.
- Kreines, J. (2004). Hegel's Critique of Pure Mechanism and the Philosophical Appeal of the Logic Project. *European Journal of Philosophy* 12(1): 38–74.
- . (2015). *Reason in the World: Hegel's Metaphysics and Its Philosophical Appeal*. New York: Oxford University Press.
- McDowell, J. (1994). *Mind and World*. Cambridge, MA: Harvard University Press.
- . (2001). On Projection and Truth in Ethics, in *Mind, Value, and Reality*. Cambridge, MA: Harvard University Press, 151–166.
- . (2002). Responses, in N.H. Smith (ed.) *Reading McDowell: On Mind and World*. New York: Routledge, 267–305.
- . (2007). On Pippin's Postscript. *European Journal of Philosophy* 15(3): 395–410.
- Ng, K. (2016). Life and Mind in Hegel's *Logic* and *Philosophy of Subjective Spirit*. *Hegel Bulletin* 37(2): 1–22.
- Nietzsche, F.W. (2006). *On the Genealogy of Morality*, trans. C. Diethe, ed. K. Ansell-Pearson. Cambridge: Cambridge University Press.
- Peters, J. (2016). On Naturalism in Hegel's *Philosophy of Spirit*. *British Journal for the History of Philosophy* 24(1):111–131.
- Pippin, R.B. (2002). Leaving Nature Behind: Or Two Cheers for Subjectivism, in N.H. Smith (ed.) *Reading McDowell: On Mind and World*. New York: Routledge, 58–76.
- . (2005). *The Persistence of Subjectivity: On the Kantian Aftermath*. Cambridge: Cambridge University Press.
- . (2008). *Hegel's Practical Philosophy: Rational Agency as Ethical Life*. Cambridge: Cambridge University Press.
- . (forthcoming). Reading Hegel. *Australasian Philosophical Review*, 2 (2).
- Wretzel, J. (2018). Organic Imagination as Intuitive Intellect: Self-Knowledge and Self-Constitution in Hegel's Early Critique of Kant. *European Journal of Philosophy* 26(3): 958–973.
- Yeomans, C. (2012). *Freedom and Reflection: Hegel and the Logic of Agency*. Oxford: Oxford University Press.

4 Hegel's Metaethical Non-Constructivism

Sebastian Ostritsch

Introduction

The philosophical field of metaethics is a rather recent invention. Its beginnings are tied to the rise of philosophy of language at the outset of the twentieth century. Metaethics started as an attempt to understand ethical discourse. At its center was the question of whether moral statements functioned the same way as regular statements of fact (meaning that they could be true or false), or if moral statements were instead to be understood as mere expressions of subjective sentiment and feeling, thus not carrying any legitimate claims to truth (see, e.g., Stevenson 1937). This linguistic problem soon turned out to have an ontological flip side. The central ontological question of metaethics that philosophers grapple with is whether there *really are* such things as moral facts, or – borrowing a famous metaphorical expression from John Mackie – whether moral norms and values belong to the “fabric of the world” (Mackie 1977: 15). Another probably even more illuminating way of putting it is whether morality is something that is invented or discovered (McNaughton 1988: 3). What is invented is made up or constructed by humans; what is discovered was already there beforehand, independently of us.

Hegel, of course, did not know of a field of philosophical research called “metaethics.” However, Hegel’s philosophy is of unparalleled breadth. His encyclopedic system encompasses literally everything from metaphysics to philosophy of nature and philosophy of spirit, with the term “spirit” (*Geist*) meaning more than just subjective individual mental phenomena like consciousness. For Hegel, spirit is not just subjective (i.e., it does not only encompass mental or psychological phenomena) but also objective.¹ Objective spirit is the realm of human life as governed by practical norms and values. The realm of objective spirit is thus where we have to look if we want to reconstruct a Hegelian answer to the ontological question of contemporary metaethics; that is, whether morality is invented or discovered, constructed or found.

In this chapter, I want to focus on the question of constructivism and, since constructivism implies a form of antirealism, on the question of realism and antirealism.² My claim is that Hegel is best classified as a special kind of weak moral realist and not as a constructivist, despite his belief that moral reality does not exist independently of the social ethical order he calls *Sittlichkeit*. I argue that Hegel is thus neither a full-blown moral realist nor a full-blown moral antirealist. Instead, he challenges this very dichotomy of contemporary metaethics.³

This chapter consists of two main parts. In the first part, I explain what I mean by “morality,” “moral realism,” and “moral antirealism,” and I give reasons why I take both positions to be problematic. The second, larger part consists of five subsections. I argue that Hegel’s *Philosophy of Right* is the right place to look for a Hegelian moral ontology by explaining the connection that Hegel sees between the concepts of freedom and right (2.1). Then, I offer a sketch of Hegel’s concepts of abstract right (2.2), *Moralität* (2.3) and *Sittlichkeit* (2.4). In the section on *Sittlichkeit*, I argue that Hegel’s metaethical view is more realist than a social constructivist reconstruction of his position could account for. In the last section of the second part (2.5), I discuss Hegel’s view that the specific moral reality of a given *Sittlichkeit* is co-dependent with the communal self-conceptualization of a people and that this self-conceptualization (and with it the normative order of a particular *Sittlichkeit*) is subject to historical change. I go on to defend the claim that Hegel’s concept of historicized *Sittlichkeit* does not warrant the label of constructivism in a broad sense of the term, according to which the normative order as such is the result of our agency.

1. Morality, Moral Antirealism, and Moral Realism

I want to begin by explaining what I mean by “moral” and “morality.” I do not use these terms in the technical sense of Hegel’s *Moralität*, about which I will say more later. Rather, I identify morality with strong practical normativity. In contrast to theoretical normativity, strong practical normativity is not about the normative standards governing our theoretical reasoning process, but it is practical insofar as it is the normativity that guides our actions.⁴ But strong practical normativity is not only to be contrasted with theoretical normativity but also with weak practical normativity. While weak practical normativity only recommends or suggests what to do, strong practical normativity refers to the totality of norms and values that determine what must be done. When we act in accordance with weak practical normativity, we can be called smart or well advised. When we act in accordance with strong practical normativity, we can be called moral.⁵ In the following, I will focus on morality in the sense of strong practical normativity. In order to avoid confusion, I will not differentiate between the ethical and the moral. When I speak of Hegel’s own position, I will use the German terms “*Moralität*” and

"*Sittlichkeit*" instead of the common English translations "morality" and "ethical life."

I use the terms "moral realism" and "moral antirealism" in the way they are commonly used in contemporary metaethics. Moral realism usually refers to a position that makes the ontological claim that morality is objective in the sense that moral norms and values exist independently of human subjectivity. Moral antirealism on the other hand is usually the thesis that morality has no objective existence of its own but is dependent on human subjectivity. Moral realists thus take morality to be a part of the world, while moral antirealists claim that morality is but the result of a subjective and thus (at least somewhat) illusory projection onto an objectively nonmoral world.

There are many ways of spelling out these two basic positions. A complete metaethical account would need to include a discussion of the semantics and pragmatics of moral language, the connection between motivation, reason, and action, as well as many other issues.⁶ In the following, I will limit myself to the discussion of a very basic, almost minimal notion of moral realism and antirealism.

I will now try to elaborate on moral realism and antirealism and point out some problems these positions run into. I begin with moral antirealism. One of the main arguments for moral antirealism is to be found in Mackie's seminal book *Ethics* (Mackie 1977).⁷ Mackie's famous "argument from queerness" states that moral realism requires entities, namely objective values that are ontologically different from everything else we know to exist. An objective good, according to Mackie, would be an entity that was

sought by anyone who was acquainted with it, not because of any contingent fact that this person, or every person, is so constituted that he desires this end, but just because the end has to-be-pursuedness somehow built into it.

(Mackie 1977: 40)

In contrast to a merely subjective good, an objective good would be an entity that is to be pursued not because subjects believe it to be good, but simply because its goodness is a matter of fact. Now, this alone obviously does not warrant Mackie's conclusion that:

If there were objective values, then they would be entities of qualities or relations of a very strange sort, utterly different from anything else in the universe.

(Mackie 1977: 38)

What Mackie needs to make his argument work is the additional claim that what exists is limited to entities that stand in opposition to objective

values, and which we can call “natural” entities. This limitation of what exists is guided by Mackie’s scientistic naturalism:

I can only state my belief that satisfactory accounts of most of these [phenomena such as knowledge, essence, number, identity, diversity, solidity, inertia, substance, S.O.] can be given in empirical terms. If some supposed metaphysical necessities or essences resist such treatment, then they too should be included, along with objective values, among the targets of the argument from queerness.

(Mackie 1977: 39)

I believe the circularity of Mackie’s argument to be fairly obvious: According to Mackie, the reason there cannot be any objective values is because there are only natural entities, where being a natural entity is defined as being a non-value entity fully describable by empirical science. Thus, Mackie’s argument from queerness comes down to the dogmatic assurance that there are no objective values because there are no objective values.

I not only believe that the argument from queerness fails as an argument for moral antirealism but I also think that it leads to an argument against a kind of moral antirealism that is motivated by scientistic naturalism. According to scientistic naturalism, it is exclusively up to modern empirical science to determine what there is and how it is. There are surely many good reasons to be skeptical about such scientistic claims. One of them is that scientism – empirically speaking and thereby according to its own standards – is not even close to offering a full-scale reductionist account of what there is. The prevailing irreducibility of consciousness is probably the most striking example. A different and philosophically more interesting problem with scientistic naturalism is that – if it were successful – it would have to eliminate objective normativity in both its practical and theoretical guises. Instead of reasons why we *should* believe something, it could only offer causes as to why we in fact do (or do not) believe something. Therefore, the scientistic view of an exclusively nonnormative and nonevaluative world would destroy the possibility of giving objective reasons why anyone should believe that scientistic naturalism is true. I believe we have good reasons to be suspicious of such a self-defeating position.⁸

I will now turn to moral realism. So far, I have characterized moral realism only vaguely as the thesis that moral norms and values exist independently of subjectivity. A little more precision is needed. In this paper, I want to limit myself to what can be called strong moral realism. In contrast to weak moral realists, like John McDowell (1998) and David Wiggins (1998), strong moral realists, like David Sosa (2001) and John M. Rist (2004), hold that moral properties are not only partially but fully independent of subjectivity.⁹ What is meant by “subjectivity” here? Even

the strong realist will not claim that morality is independent of subjectivity in every respect. He will usually admit that morality is tied to subjectivity in the following twofold sense – I quote David Sosa:

- (1) [T]he very *bearers* of ethical properties depend on the existence of subjective agents. Whatever we take as the primary bearers of ethical property, whether these be intentional actions, complexes involving subjects, or just subjects individually, subjectivity is an essential element in the very constitution of the bearers of ethical properties (Sosa 2001: 323).

And:

- (1) [P]art of what makes an action right has *something* to do with how that action relates to subjective agents. Such notions as intent, happiness, pleasure and pain, duty, and rights appear to be inseparable from subjectivity (as do the virtues of courage, loyalty, generosity, justice, benevolence, etc.) (Sosa 2001: 323).

First, without human subjects, there would not be anything that we could judge morally. Everything we do judge morally – be it action or character – is distinctly subjective. And second, what makes judgments about action and character true or false itself has the mark of subjectivity.

The strong moral realist has no trouble accepting these kinds of subjectivity being constitutive of morality as long as it is clear that moral properties are not subjective in the sense that “[s]ubjective evaluations are held to be interdependent with ethical value” (Sosa 2001: 323). Such a subjectivism would, according to Sosa, lead to a kind of “epistemicism,” according to which the truth of moral judgments depends “on our tendency to find them true” (Sosa 2001: 329, n. 33). Strong moral realism, which Sosa also calls “Platonism” (Sosa 2001: 326), rejects such an epistemic dependency of the truth of moral judgments. Instead, strong moral realism is “constituted by holding ethical properties to be akin to primary qualities in their independence from subjective judgement” (Sosa 2001: 329, n. 35).¹⁰

It would indeed seem absurd to claim that one holds a realist position in ethics according to which moral facts depend on the particular beliefs of an individual. In such a case, *we* simply could not get things wrong (or really right, for that matter) when it comes to morality. Therefore, one can hardly do otherwise than to agree with Sosa on the subjectivity-independence of morality in this sense. However, as I want to show with Hegel in the following sections, the moral realist’s statement that moral properties are “akin to primary qualities in their independence from subjective judgment” leads to an unresolved tension between subjective self-determination and the normative authority that subjects experience

with regard to morality. If moral facts are modeled on (a traditional view of) primary qualities, then it must remain mysterious why a *free* subject would come to regard these facts as a normative authority. This is one of Hegel's metaethical claims that I will now try to explain.

2. Hegelian Moral Ontology

As already mentioned in the introduction of this chapter, Hegel's philosophy of objective spirit is the right place to look for a Hegelian moral ontology. The most detailed exposition of Hegel's philosophy of objective spirit can be found in his *Philosophy of Right* from 1820. Therefore, I will mainly draw on this work, and refer only occasionally to Hegel's more compact exposition of objective spirit in the *Encyclopedia*.

Before we can reconstruct Hegel's own metaethical position, and the arguments against strong moral realism (hinted at earlier) and moral antirealism, a few remarks are necessary about Hegel's methodology in the *Philosophy of Right*, and about the way we will try to extract Hegel's metaethical thinking from it.

In his *Philosophy of Right*, Hegel starts out by demonstrating the conceptual connection between freedom of will on the one hand and the realm of strong practical normativity, which he calls "right," on the other hand. The three main parts of the *Philosophy of Right* that follow are called "abstract right" (*abstraktes Recht*), *Moralität*, and *Sittlichkeit*. Each one can be understood as an attempt to articulate a theory of strong practical normativity (i.e. right). The theory put forth under the heading of "abstract right" will try to grasp strong practical normativity as something that exists in an immediate, quasi-natural way (i.e., something that is not mediated by subjective attitudes and intentions). This is the common denominator between strong moral realism and abstract right. Abstract right, however, will prove to be an insufficient attempt at grasping right as strong practical normativity. This will give rise to the chapter about *Moralität*, which is an attempt to define strong practical normativity in antirealist terms, namely as something that is dependent on subjective attitudes and intentions. *Moralität*, however, will also prove to be insufficient as it fails to account for the transindividual objectivity and authority of the moral realm. It is only through the failings of abstract right and *Moralität* that Hegel finally moves on to *Sittlichkeit*, which contains Hegel's true understanding of moral reality.¹¹ Since Hegel's argument for *Sittlichkeit* depends entirely on his exposition and critique of abstract right and *Moralität*, and since *Sittlichkeit* contains Hegel's own metaethical position, we will have to go through the entire *Philosophy of Right*.

2.1 From Freedom to Right

In this section, I want to show that Hegel's concept of right corresponds to the notion of strong practical normativity that is at the heart of

contemporary moral ontology. Hegel does not, however, simply presuppose a certain notion of right or normativity. Instead, he develops his notion of right (as strong practical normativity) from the concept of free will.

Hegel argues in the introduction of the *Philosophy of Right* that a minimalistic but viable concept of free will is that of self-determination (Hegel 2008: §§5–7). To be free means to determine oneself. But what does it mean to determine oneself? The most common answer is that to determine oneself means to be able to choose as one pleases. Hegel does not deny that freedom of choice is part of what it means to be free. However, he points out that such an understanding of freedom is not self-sufficient. Mere freedom of choice is not real self-determination because what is chosen by the subject (the content of its choice) is merely given to it. For example, my desire for rib-eye steak instead of salad is usually not something I have generated but rather something that I find “inside” myself. Mere freedom of choice does not accomplish self-determination because the will is determined *externally* by the options it chooses from (even though these options might nevertheless be something “inside” me as in the example just given). In order for self-determination to be truly *self*-determination one must not choose as one pleases, but rather must choose in such a way that the chosen content includes nothing external to the free will. If what is willed by the truly free will cannot be external to it, then the free will itself must be its own object of choice. This is the meaning of Hegel’s formula of “the free will which wills the free will” (Hegel 2008: §27). Self-determination in the full sense is therefore to be understood as *self-relating* self-determination, meaning that the free will is truly free when it determines itself in such a way that it becomes and remains self-determination. This means that the content or object of my will must itself have the character of freedom. Unsurprisingly, it is not through the willing of material objects, but through relating to other human subjects and human institutions that one finds and realizes freedom. Therefore, friendship and marriage are prime examples of true freedom according to Hegel (2008: §7 addition; §161).

The decisive point for our purposes here is that the concept of right follows immediately from this concept of freedom as self-relating self-determination. The self-determination that relates to itself as such is not arbitrary choice but rather what the free will *must* will in order to be truly free. This notion of what free beings as such *must will* is precisely the notion of right. The term “must” here does not refer to a causal necessity but to the “must” of strong practical normativity. “Right” is thus Hegel’s name for what free beings as such are normatively compelled to do.¹² Whatever counts as an actualization of free will falls within the realm of strong practical normativity. If instances of free will exist, the realm of strong practical normativity also exists. However, by saying this, nothing has been prejudged about whether Hegel’s theory of strong practical normativity is to be understood along the lines of moral realism or moral

antirealism. My main claim, which I already stated at the beginning of this chapter, is that Hegel is a special sort of weak moral realist. To prove this claim we must, as I have stated earlier, follow the path of Hegel's exposition of the concept of right through its different stages of abstract right, *Moralität* and *Sittlichkeit*.

2.2 Abstract Right

Abstract right follows simply from taking up the concept of right as it is derived from the concept of free will, without any further qualification: "The will that is free in and for itself, at the stage when its concept is abstract, has the determinate character of immediacy" (Hegel 2008: §34). Hegel claims that from the concept of an immediate will that is free in and for itself we gain the notion of personhood, where being a person comes down to knowing oneself as a self-determining individual (i.e., an individual with a free will) and thus as a bearer of rights. Persons not only have the ability to abstract from given inclinations and determine what they want, they also know that this type of self-determination is their right (Hegel 2008: §§35–36). The freedom of personhood is thus not identical to freedom of choice, but the former incorporates the latter in such a way that a person knows his freedom of choice to be an assertion of his right. For Hegel, the self-determination of persons finds its immediate expression in persons claiming things *as their property*; that is, by transforming mere things into objects of the free will (Hegel 2008: §§41–42). Under closer scrutiny, however, this concept of abstract right turns out to be unstable. After all, right as such has been established as that which the free will *must* will. But whether or not persons actually live up to this necessity of the "must" is itself contingent within the sphere of abstract right. The contingency in question results from the fact that whether or not a person respects the rights of others depends on the mere choice of the person in question. Therefore, there is an inherent possibility of wrongdoing in the concept of abstract right. Whether or not persons actually uphold what is right depends on their mere choice (Hegel 2008: §82).¹³

The parallel to strong moral realism is that within abstract right, the normative realm is thought of "as something that exists in the unmediated mode of nature" (Hegel 1986a: §502, addition).¹⁴ And because it is not mediated by subjective attitudes and intentions, it bears no intrinsic connection to the subjects involved. The norms of abstract right do not appear to subjects as something that they must uphold *because they are subjects*. The same is true of strong moral realism. Thus, in strong moral realism as in abstract right, the problem is that strong practical normativity loses its authoritative character, which consists in telling agents what they *must* do in order to count as free subjects.

2.3 *Moralität*

From the failure of abstract right, it follows that right (as the normative necessity involved in self-relating self-determination) turns out to be such that the difference between the necessity of right and the (conceptually necessary) contingency of wrongdoing must be accounted for. The sphere of *Moralität* refers exactly to this more elaborate conception of the free will. While personhood, as the immediate mode of the existence of right, cannot account for the *necessity* of right, the subjects of *Moralität* know about this potential divergence between the necessity of right and the contingent choice of particular individuals. The individuals belonging to the sphere of *Moralität* thus exhibit a kind of reflective self-awareness of the shortcomings of their self-understanding as persons with rights: "It [i.e., the will within *Moralität*] now has its personality – in abstract right the will is personality and no more – for its *object*" (Hegel 2008: §104).

Through the failure of abstract right to live up to its own concept of self-relating self-determination, a difference between the so called particular and universal aspect of the free will has appeared. True freedom (as opposed to arbitrary choice) demands something of *all* subjects that are free. This is the universal aspect of the free will. At the same time, however, particular individuals have particular wills that can go against the universal demands of freedom. This is the particular aspect of the free will. In the sphere of *Moralität*, this duality of the free will has become explicit *for* the free will itself. Free will is therefore not restricted to immediate realizations (as within the sphere of abstract right) but manifests itself in a self-reflected, mediated form of purposive and intentional action (Hegel 2008: §114).¹⁵ Hegel calls right insofar it has to be attained through the particular purposes and intentions of human subjects "the good" (Hegel 2008: §29). From the internal perspective of the acting subject, the good is understood as "duty," as that which presents itself to the subject as something that it *must* do (Hegel 2008: §133).

At this point of the conceptual development of freedom and right, the sphere of *Moralität* faces a problem similar to the one abstract right runs into. What the good actually is is determined solely by the will of the acting subject. The good is not immediately "given" like abstract right, but the crucial point about the sphere of *Moralität* is that the good is mediated by intentional action. But how does the subject determine what the good is? What gave way to the concept of *Moralität* and the corresponding notion of freedom in the first place was the need to understand the free will as having in view the potentially divergent relation between the particular content of the will and the universality of the will. Therefore, from the standpoint of *Moralität*, all that can be said about what the good is is that the particular intention has to be universalizable (Hegel 2008: §135). But as Hegel insists against Kant, any subjective intention

whatsoever can be universalizable insofar as “universality” here simply means that an intention is self-consistent. If I steal in order to gain property, my action is surely self-contradictory. However, if I steal with the very intention of destroying the institution of property as such, there is no contradiction in my action of stealing (Hegel 2008: §135, remark). Therefore, the attempt of the subjective will to determine what its duty is fails because it cannot avoid arbitrariness.¹⁶ This arbitrariness is not, however, something we have to avoid just in order to avoid falling into moral relativism, but because such arbitrariness fails to capture the very notion of strong practical normativity, which is exactly what the concept of free will within *Moralität* was meant to accomplish.

The Hegelian critique of *Moralität* provides us with an argument against moral antirealism. The conceptual insufficiency of moral antirealism is precisely the insufficiency of *Moralität*: If strong practical normativity is understood as the result of a subjective projection or construction, then the very concept to be captured is lost. Put differently: If morality (i.e., strong practical normativity) refers to what free beings must do, then any understanding of morality that cannot account for its inherent normative necessity is flawed. The fundamental problem of moral antirealism can be summed up by transferring John McDowell’s general critique of Davidsonian-style coherentism to the moral realm: Moral antirealism leads to a “frictionless spinning in the void” (McDowell 1994: 11), thereby destroying the very concept of morality and thus the antirealist’s effort to construct or project it.

2.4 *Sittlichkeit, Moral Realism, and Social Constructivism*

Hegel’s analysis of *Moralität* not only offers a powerful critique of moral antirealism but also provides an inherent transition to a viable understanding of freedom and right (strong practical normativity). The failure of *Moralität* implicitly contains what is needed for a full understanding of strong practical normativity: The subjectivist account of the good presupposes objectively binding norms and values for its test of universalizability. For example, only if life and property are recognized as objective values is it possible to criticize maxims of murder and theft as self-contradictory and therefore as bad. Hegel’s name for this sphere of *objective* strong practical normativity is *Sittlichkeit*. Characterizing *Sittlichkeit* in this way might seem to suggest that Hegel is a clear-cut strong moral realist. Indeed, if one only focuses on Hegel’s criticism of moral antirealism it might seem like Hegel must be “committed to moral realism,” as Dudley Knowles (2002: 215) thinks, and therefore must hold the view that moral norms and values are “‘out there’ in the world,” as Robert Stern (2007: 245) believes. This is only half of the story, however. Despite its anti-antirealist implications, Hegel’s concept of *Sittlichkeit* is tied to subjectivity in a way that the strong moral realist rejects. To see why this

is the case, it is necessary to elaborate a little more on the transition from *Moralität* to *Sittlichkeit* and on the concept of *Sittlichkeit* itself.

In the sphere of *Moralität*, it was up to the subject to determine what the good is. The only criterion it had in order to accomplish this task was to check particular maxims for their universalizability. But, as Hegel points out, such a test presupposes certain norms and values that are not up to the individual. But if one were to supplement *Moralität* with an objective normative order that was immediately there or simply given, this would violate the central connection between strong practical normativity and self-determination. If the objective moral order was determined independently of the will of subjects, then the moral realm would be external to self-relating self-determination, and consequently it would not be a sphere of strong practical normativity *for us*. We have already seen that, in order to guarantee the normative necessity inherent in true self-determination, the objective normative order must incorporate the insight that right can only be achieved if it is mediated by subjects that determine the good in light of the difference between the particular and the universal aspects of the will. Therefore, the objective normative order presupposed by moral subjects cannot be just any given order. It instead must be such that, as Hegel puts it, “the objective is filled with subjectivity” (Hegel 2008: §144, addition). *Sittlichkeit* cannot be some kind of immediately given quasi-natural moral realm. What *is objective* in the moral realm must be free subjectivity itself. Such an *objective subjectivity*, Hegel points out, is to be found in the “*laws and institutions*” (Hegel 2008: §144) of an ethical community. These laws and institutions are subjective because they are not just there anyway, but exist only insofar they are known, wanted, and actively upheld by human subjects. Also, these laws and institutions are subjective because it is through them that subjects achieve true self-determination. At the same time, the laws and institutions of an ethical community are objective because they are “exalted above subjective opinion and caprice” (Hegel 2008: §144). What must be done is not up to the caprice and arbitrary will of individuals but is determined by the ethical institutions of which every subject is a part:

In an ethical community, it is easy to say what someone must do, what are the duties he has to fulfil in order to be virtuous: he has simply to follow the well known and explicit rules of his own situation.

(Hegel 2008: §150, remark)

What it means to be a caring father, an honest businessman, or a patriotic citizen is not up for grabs by the individual. At the same time, the institutions within which it is objectively determined what it means to be good, caring, honest, and patriotic are not there anyway independently of subjective activity, but are “actualized by self-conscious action” (Hegel 2008: §142).

The moral realm of *Sittlichkeit* is therefore, as Stephen Houlgate says, “generated by free self-determining subjectivity” (Houlgate 2005: 195). In stark contrast to strong moral realism, the Hegelian point is that moral properties do not exist like primary qualities of natural objects. The institutions and laws of *Sittlichkeit* depend on the self-understanding of human subjects that they are essentially free. Since human institutions depend on the self-understanding of human subjects, the objective ethical order cannot be separated from what subjects take themselves and the good to be. What it means to be virtuous cannot be picked out independently of what it means to be a member of a shared and institutionalized ethical practice. Therefore, moral properties such as goodness, honesty or courage are internally bound to an institutionalized ethical practice that is not determined independently of the self-understanding of human subjects. At the same time, however, what it means to be free is not determined by arbitrary decisions or simple choice. Rather, the moral realm is determined according to the self-determining activity of human subjects, an activity that exhibits a necessary conceptual structure (i.e., the one traced by the *Philosophy of Right*). Sosa’s charge of “epistemicism” does not therefore apply to Hegelian *Sittlichkeit*, because Hegel does not claim that a moral judgment is true or false *because* an individual believes it to be true or false.

At this point one might want to raise the objection that since the ethical order of *Sittlichkeit* is not just out there anyway, independently of the self-determining activity of human beings, we have fallen back into an antirealist position. Haven’t we just moved from a frictionless spinning in the moral void to a frictionless spinning in the social void? Or to put the worry differently: What is the difference between Hegelian *Sittlichkeit* and social constructivism (or institutionalism) as it is put forth by thinkers such as Mackie (1977: 42ff.), Philippa Foot in her middle period (Foot 1972, 2002), and John Searle (1995, 2010)?¹⁷ Of course, there are huge differences between each of these philosophers. However, they have a common theme. In essence, social constructivists argue that the validity of moral norms and values depends on social institutions, and that individuals only have objective moral reasons to adhere to certain norms and values if they, as individuals, are part of the institutions these norms and values are rooted in. There is no necessary reason, however, why an individual should commit to a certain institution according to social constructivism. If being part of an institution goes against an individual’s particular interests, then there is no reason why this individual should conform to said institution (i.e., adhere to its values and norms). On a social constructivist interpretation, Hegelian *Sittlichkeit* would thus not establish strong practical normativity after all.

The main problem with the social constructivist picture is that it presupposes that human subjects are just there anyway and that these subjects, *in addition* to being there, project a moral order onto the world by

establishing socially sanctioned normative orders. The Hegelian point is exactly the opposite. Human subjects exist only as members of an objective ethical order. According to the Hegelian picture, it makes no sense to conceive of the ethical realm as something unreal, projected, or constructed. Rather, the Hegelian point is that if free subjects are to exist, then they must exist as members of a normative order that strongly binds them in their way of living because this normative order is the full realization of what it means to be a self-determining being. Social constructivism is simply not realistic enough from a Hegelian perspective, because the institutional reality of *Sittlichkeit* is not the result of a process of intersubjective deliberation or recognition.¹⁸ This is exactly where social constructivist reconstructions of Hegel's metaethics – as offered by Robert B. Pippin (2002, 2005, 2007, 2008), Stefan Bird-Pollan (2012) or Kenneth R. Westphal (2016–17) – go wrong.

Westphal insists that Hegel's *Philosophy of Right* is a form of “moral constructivism which is altogether *neutral* about moral realism and its alternatives” (Westphal 2016–17: 1). He goes on to argue that Hegel's brand of constructivism entails that “basic moral norms and institutions nonetheless are strictly objectively valid” (Westphal 2016–17: 1) and that this objective validity is rooted in the fact that Hegel bases his construction “upon objective basic elements” (Westphal 2016–17: 3); that is, objective facts about human nature and not subjective preferences. It is true that Hegel recognizes and incorporates objective facts about human nature into his theory. However, as I try to show in this chapter, Hegel argues that human nature always already appears within the ethical order of a *Sittlichkeit*, which is why it cannot be said that the latter is constructed; it is simply not an artifact. *Sittlichkeit* is *not* something that, as Pippin claims by analogy with the coming about of opera, is gradually “invented, made” (2008: 75).¹⁹ While there were many individuals before the opera was invented, from the perspective of *any* individual, *Sittlichkeit* as such (of course not necessarily a particular kind of *Sittlichkeit*) is always already there as an objective reality:

This ethical substance and its laws and powers are, on the one hand, an object over against the subject, and from the latter's point of view they *are* – “are” in the highest sense of self-subsistent being. This is an absolute authority and power infinitely more firmly established than the being of nature.

(Hegel 2008: §146)

As McDowell puts it in a response to Pippin, the invention metaphor is problematic because the answer to the question of who invented *Sittlichkeit* (who bestowed normative authority on its rules) is simply: “No one did it” (McDowell 2007: 409). It is because social constructivism is not realistic enough for Hegel's moral ontology that, in my view, Hegel can rightly be called a moral realist, at least a *weak* one.

At the same time, however, Hegel points out that the very essence of this objective reality is subjectivity or spirit:

On the other hand, they [the laws and institutions of *Sittlichkeit*, S.O.] are not something alien to the subject. On the contrary, his spirit bears witness to them as to *its own essence*, the essence in which he has a *feeling of his selfhood*, and in which he lives as in his own element which is not distinguished from himself.

(Hegel 2008: §147)

Sittlichkeit is not invented or constructed, but at the same time it is a reality that is expressive of human spirit (i.e., of human freedom).

2.5 *Sittlichkeit, History, and Constructivism Revisited*

In order to understand how *Sittlichkeit* can be a given reality to the individual and, at the same time, be expressive of his essence as a free being, we have to look at the historical dimension of *Sittlichkeit*. This is the last and decisive twist to Hegel's moral ontology.

As I have just tried to sketch, Hegel argues in his *Philosophy of Right* that freedom is only realized within a sphere of strong practical normativity (the sphere of right) and that such a sphere exists only in the form of a *Sittlichkeit*. Thus, *Sittlichkeit* is constitutive of freedom. If we accept that it is freedom that differentiates humans from all other beings, then we must conclude with Hegel that humans (in an emphatic sense; that is, as more than just biological creatures) exist only within a particular *Sittlichkeit*. Therefore, the Hegelian must claim that *Sittlichkeit* as such has always already been there for human beings. In this sense, *Sittlichkeit* cannot be invented or constructed by humans. At the same time, however, the specifics of any given *Sittlichkeit* (e.g. the abolition of slavery for our own modern *Sittlichkeit* but not that of ancient Rome) have not always existed. Rather, just as with any particular *Sittlichkeit*, our current *Sittlichkeit* is the result of a historical process.

According to Hegel, this historical process is centered around human communities gaining a self-understanding of the meaning, extent, and implications of their own freedom. Hegel emphasizes that this gaining of self-understanding is not to be modeled around some kind of a platonic idea of human freedom which is waiting to be discovered. Rather, the historicity of communal self-understanding and its corresponding conception of *Sittlichkeit* is rooted in what Hegel describes as the manifestational or revelatory structure of spirit:

It [spirit] is not just any determinateness or content from which its external manifestation or its externality would need to be distinguished as its form; thus, it does not reveal something, but its determinateness and content is this activity of revelation itself.

(Hegel 1986a: §383)²⁰

As Pippin (2008: 65–66) has correctly pointed out, Hegel conceives of spirit in the tradition of Kant and Fichte as self-producing; spirit is only what it makes of itself. And history, according to Hegel, is the temporal dimension of the self-production of spirit in the guise of different forms of *Sittlichkeit*. A particular *Sittlichkeit* is the expression of a certain kind of communal self-understanding, just as the other way around, a certain kind of communal understanding is the manifestation of a particular *Sittlichkeit*. Spirit's self-determination and self-understanding determine each other reciprocally (see Halbig 2001, 2004). The transformation from one particular *Sittlichkeit* to another is thus a process that involves a transformation in communal self-understanding. Hegel describes the historical process of the transformation of *Sittlichkeit* as follows:

The history of spirit is its own *act*, because spirit is only what it does, and its act is to make itself the object of its own consciousness. In history its act is to gain consciousness of itself as spirit, to apprehend itself in its exposition of itself. This apprehension is its being and its principle, and the *completion* of an act of apprehension is at the same time its externalization and transition. Expressed formally, spirit apprehending this apprehension *anew*, or in other words returning to itself out of its externalization, is the spirit of the stage higher than that on which it stood in its earlier apprehension.

(Hegel 2008: §343)²¹

Hegel thus not only claims that history is a series of different manifestations of *Sittlichkeit* but that this series constitutes *progress*. The term “spirit” does not refer to a free-floating entity, independent from individual humans and their communities. Rather, “spirit” is the term for a general way or form in which humans self-conceptualize (through thought) and self-actualize (though free acts). That “spirit apprehends itself anew” thus means that humans gain a more complete understanding of themselves as self-actualizing (free) beings; the expression “more complete” must, of course, be understood in terms of completeness in relation to certain internal defects or inconsistencies of former types of *Sittlichkeit* and not as completeness in relation to a fully articulated platonic ideal of *Sittlichkeit*.

This self-apprehension need not be a philosophical reflection or insight, and it rarely is. It is rather the general way in which “states, peoples, and individuals” (Hegel 2008: §344) have an implicit and explicit, conscious and unconscious, rational and emotional self-understanding (an understanding of “who we are”). As the quote just cited shows, Hegel believes that such a communal self-understanding is not static but dynamic. It is based on a “particular determinate principle” (Hegel 2008: §344), which is only germinal in the beginning (i.e., unknown to most and probably just sensed by certain great individuals) and which slowly comes to fruition until it reaches its “completion” (Hegel 2008:

§343). The moment of completion is thought of by Hegel as the moment where a certain way of communal life becomes old and fruitless. Its death makes necessary the birth of a new communal self-understanding and a new form of *Sittlichkeit*. Whether or not this new form of *Sittlichkeit* is indeed a more complete form of human self-actualization can only be told in retrospect. It is only looking back that we might say that we actually stand on a higher level of *Sittlichkeit* than our ancestors (which is not necessarily the case, as Hegel [1986b: 76–77] explicitly remarks by pointing out the fact that standards of *Sittlichkeit* might be forgotten or even destroyed).

With regard to Hegel's claim that – at least in general – the course of history is one of refinement and improvement of *Sittlichkeit*, the strong moral realist might ask the following critical question: "Improvement is improvement along a dimension; what defines the relevant dimension?" (Sosa 2001: 306).²² It is a question to which the realist thinks only he himself has an answer:

The objectivist has a view; the dimension is defined by the properties themselves. Our reactions, because they are not metaphysically *prior* to the properties, can be more or less *sensitive* to them.

(Sosa 2001: 306)

But Hegel does agree with the "objectivist" that an individual's reactions are not prior to the ethical properties of *Sittlichkeit*. Yet Hegel believes that moral reality itself (and with it its properties) is subject to historical change, and history is to be understood as the dimension along which the "self-actualization" (Wood 1990: 203) of spirit takes place.²³ Hegel thus rejects the strong realist's notion of an a-subjective universe of moral discourse that is fully articulated from the outset of history. F.H. Bradley has expressed the Hegelian thought that morality is real and, at the same time, relative to spirit's historical standpoint perfectly:

Morality is "relative," but is none the less real. At every stage [of history] there is the solid fact of a world so far moralized. There is an objective morality in the accomplished will of the past and present. . . . It comes to me as the truth of my own nature, and the power and the law, which is stronger and higher than any caprice or opinion of my own. "Evolution," in this sense of the word, gives us over neither to chance nor to alien necessity, for it is that self-realization which is the progressive conquest of both.

(Bradley 1927: 190)

Does this view, however, not lead us back to some form of constructivism? Christoph Halbig (2015) has argued against my labeling of Hegel as a weak moral realist that even though Hegel may not be a *social*

constructivist, he can nevertheless be understood as subscribing to the broader constructivist claim “that we construct or bring about through our agency the normative realm” (Wallace 2012: 21). It is true that for Hegel the normative realm of a particular *Sittlichkeit* is the manifestation of the self-understanding of a particular community of humans. And it is also true that according to Hegel, individual and collective actions might lead to changes in the specific normative setup of a *Sittlichkeit*, and eventually even to a different form of *Sittlichkeit*. Yet these views do not justify Hegel's classification as a moral constructivist. For the metaphor of construction, as well as the term “to bring about” that R. Jay Wallace uses, suggests that *first* there is human agency and then *later*, created by some instances of this agency (i.e., actions), there is the normative realm. I have already repudiated this view of the normative realm as an adequate representation of Hegel's metaethics. For Hegel, human agency and the normative realm of *Sittlichkeit* go hand in hand. They are equiprimordial. There is no priority of agency over the normative order. In addition, from the perspective of individual agents, the normative realm of *Sittlichkeit* is always already there as “the world so far moralized” (Bradley 1927: 190).

One might counter that even though the expressions “to construct” and “to bring about” in Wallace's definition are misleading, the core of the matter is about an internal relation between agency as such and the normative realm. According to what has come to be known as constitutivism, a position most prominently defended by Christine Korsgaard (2009), the adherence to instrumental as well as moral norms (or in different terms: the hypothetical and the categorical imperative) is constitutive of human agency as such. The normative realm, according to such a view, is thus the totality of internal standards that make an agent an agent. Hegel undoubtedly shares the belief that there is an internal relation between agency and the normative realm. For Hegel, without adhering to the ethical order of a *Sittlichkeit* (at least on some level), one cannot be agent at all; *Sittlichkeit* is constitutive of agency. Hegelian *Sittlichkeit*, however, is not just an abstract and formal principle such as the categorical imperative, a principle that we can find “inside” ourselves. Instead, *Sittlichkeit* is, from the perspective of the individual, an *external* world of mores, laws, and institutions, an objective reality that precedes his own existence. At the same time though, subjects find themselves in this external world. As can be seen in the feelings of love for one's family or patriotism for one's nation, subjects have an *inner* connection to the ethical order of which they are a part.

Conclusion

I have argued that Hegel's metaethical view is a form of weak moral realism but not a form of strong moral realism, since for him there is no moral reality independent from the historically situated social order

of *Sittlichkeit*. At the same time, however, I have argued against a constructivist reconstruction of Hegel's metaethics. Hegel is neither a social constructivist nor a constructivist in the broader sense of Wallace's definition, for Hegel rejects the idea that the normative realm as such is the result of a preexisting human agency, let alone the result of concrete individual or collective human actions. And yet Hegel agrees that without the ethical order of *Sittlichkeit*; that is, without human societies, there would be no normative realm. But according to Hegel, the normative order of *Sittlichkeit* predates any particular action. Especially from the perspective of the individual, it is therefore as real as anything can be.

Notes

1. Of course, there is also absolute spirit for Hegel (i.e., the realm of self-reflective human practices comprised of religion, art, and philosophy).
2. Using the four most common conceptual dichotomies within contemporary metaethics (cognitivism–non-cognitivism, realism–antirealism, naturalism–non-naturalism, and absolutism–relativism), I have tried to offer an exhaustive reconstruction of Hegel's metaethical views in a past book (Ostritsch 2014a).
3. This claim was first defended by Ludwig Siep (2007).
4. Obviously, a conception of the theoretical and the practical, which conceives of each as self-standing and self-sufficient, and thus of each as independent of the other, is utterly un-Hegelian. From a Hegelian point of view, theoretical rationality cannot be conceived independently of practical rationality. Cf. Houlgate (1995).
5. For this distinction between weak and strong practical normativity, see Luckner (2005).
6. For a compelling reconstruction of Hegel's view on the relation between motivating and justifying reasons, see Moyer (2011).
7. Mackie also offers the so-called "argument from relativity." The argument from relativity states that people disagree on moral issues and then concludes that this is so because in the case of morality there is nothing to get objectively right. This is a non sequitur. It could be just as well the case that it is just hard to get things right in ethics and this is the reason why people disagree. On the contrary, one might argue that disagreement implies that there is an objective matter of fact about which people can agree or disagree.
8. Scientistic naturalism, even though it is the main theoretical motivation for moral antirealism, is not the only one. One might, for example, also have Kantian reasons for moral antirealism. By this, I do not want to claim that Kant really was a moral antirealist. For the claim that Kant's position defies the labels of moral realism and moral antirealism, see Bojanowski (2012). However, there is a tendency to be motivated toward moral antirealism by Kantian-style arguments. In stark contrast to the scientistic naturalist, the Kantian sees that nature as such can neither provide us with reasons for actions nor account for human subjectivity itself. Thus, the Kantian will attempt to turn things around: He will deny the existence of a self-standing moral realm independent of the structure of subjectivity. And he will do so not for naturalistic but rather for anti-naturalistic reasons. Because there is nothing else left to do the job, it is up to subjectivity and reason to constitute

the moral realm. However, this is only an argument for moral antirealism if the realm of subjectivity and reason are contrasted with a truly objective reality: that is, a realm that is beyond subjectivity as such. Obviously, Kant would not subscribe to such a view of true reality being something beyond subjectivity as such. On the contrary, it seems that for Kant the moral realm is actually the prime example of finite subjects successfully accessing the noumenal realm, which is the true reality.

9. For a detailed discussion of the relation between Hegel's moral ontology and weak moral realism, see Ostritsch (2014a: ch. 7.3.3).
10. In more detail, the platonism in question claims the following: "The ethical facts are fixed by features of the ethical situation. Some of these will include, of course, whether agents are in pain, whether agents intend to do harm, whether agents are acting in expression of a virtuous character, and so on. But given those facts, the ethical status of the act is fixed and whatever anyone might think, no matter what their state of nonmoral information, is beside the point" (Sosa 2001: 326).
11. The insights into the structure of strong practical normativity that were gained in abstract right and *Moralität* will not be forgotten in the sphere of *Sittlichkeit*. Those insights will be incorporated into a more elaborate model of strong practical normativity. See Pippin (2008: 227): "In his *The Philosophy of Right*, abstract right and morality are not distinct *experiential* stages, partial alternatives to what will turn out to be ethical life. The failure of such limited putative forms of normative mindedness stems from precisely the doomed attempt to think them independently of, as if prior to, and independent of, ethical life."
12. This does not imply that weak practical normativity is not part of the *Philosophy of Right*. The chapter on *Moralität* offers a lengthy analysis of weak practical morality. However, weak practical normativity figures in the *Philosophy of Right* only because it turns out to be an essential aspect of a fully articulated concept of strong practical normativity.
13. This analysis follows the one presented in Houlgate (2005: 189).
14. The translation is my own.
15. For an in-depth analysis of Hegel's concept of action, see Quante (2004).
16. A Kantian might want to object that Hegel has failed to capture Kant's true position. It would require a separate paper to establish whether this is the case or not. For our current purposes, it is only relevant that Hegel's argument is directed toward the view that the normative realm is generated from within the subject. Whether or not this is really Kant's view is not essential for this chapter.
17. For a detailed discussion of the differences between Hegel's and Searle's social ontology, see Ostritsch (2014b).
18. For a repudiation of a recognition-based reconstruction of Hegel's philosophy of self-consciousness and practical philosophy, see Ostritsch (2017).
19. Jean-François Kervégan (2004: 36–37) has captured the non-constructed nature of the institutions of *Sittlichkeit*: "Les institutions, pour Hegel. . . , ne sont pas des artefacts; elles sont . . . des 'couches géologiques,' une manière de socle archaïque d'évidence sur lequel prennent appui, comme sur une nature, les mœurs, les croyances, les normes, les pratiques dont l'entrelacement constitue le champ de l'agir."
20. The translation is my own.
21. I have slightly amended the translation.
22. Sosa asks this question with regard to the weak moral realism of Wiggins and McDowell.

23. There are interesting parallels between the relativism proposed by David Velleman (2015: ch. V) and Hegel's theory. Both agree that morality is relative to a historically situated social order, and both believe that morality is nevertheless objective in the sense that moral reasons are valid independently of individual caprice or opinion. Also, both agree that said relativity of morality does not exclude the possibility of progress with regards to different ethical orders. Of course, there are also many important differences, one of them being that Hegel identifies human self-actualization (or freedom) as the relevant parameter providing the commensurability of different ethical orders, while Velleman believes that moralities can only be compared alongside "the necessarily ubiquitous parameter [of] mutual interpretability, which is a prerequisite for social life" (2015: 97) but not itself a *moral* parameter.

References

- Bird-Pollan, S. (2012). Hegel's Grounding of Intersubjectivity in the Master-Slave Dialectic. *Philosophy & Social Criticism* 38(3): 237–256.
- Bojanowski, J. (2012). Is Kant a Moral Realist? *Kant Yearbook* 4(1):1–22.
- Bradley, F.H. (1927). *Ethical Studies*, 2nd edn. Oxford: Oxford University Press.
- Foot, P. (1972). Morality as a System of Hypothetical Imperatives. *The Philosophical Review* 81(3): 305–316.
- . (2002). Approval and Disapproval, in *Virtues and Vices and Other Essays in Moral Philosophy*, 2nd edn. Oxford: Oxford University Press, 189–207.
- Halbig, C. (2001). Wahrheitstheorie und Geschichtsphilosophie bei Hegel, in M. Quante and E. Rózsa (eds.) *Vermittlung und Versöhnung: die Aktualität von Hegels Denken für ein zusammenwachsendes Europa*. Münster: Lit-Verlag, 105–125.
- . (2004). Ist Hegels Wahrheitsbegriff geschichtlich?, in B. Merker et al. (eds.) *Subjektivität und Anerkennung*. Paderborn: Mentis, 32–46.
- . (2015). Sebastian Ostritsch: Hegels Rechtsphilosophie als Metaethik, Mentis, Münster 2014. *Zeitschrift für philosophische Forschung* 69(3): 416–420.
- Hegel, G.W.F. (1986a). *Enzyklopädie der philosophischen Wissenschaften III* (Theorie-Werkausgabe, Band 10). Frankfurt a.M.: Suhrkamp.
- . (1986b). *Vorlesungen über die Philosophie der Geschichte* (Theorie-Werkausgabe, Band 12). Frankfurt a.M.: Suhrkamp.
- . (2008). *Outlines of the Philosophy of Right*, trans. T.M. Knox, ed. S. Houlgate. Oxford: Oxford University Press.
- Houlgate, S. (1995). The Unity of Theoretical and Practical Spirit in Hegel's Concept of Freedom. *Review of Metaphysics*, 48(4): 859–881.
- . (2005). *An Introduction to Hegel: Freedom, Truth and History*, 2nd edn. Malden, MA: Blackwell.
- Kervégan, J.-F. (2004). Le "droit du monde." Sujets, normes et institutions, in J.-F. Kervégan and G. Marmasse (eds.) *Hegel, penseur du droit*. Paris: CNRS Éditions, 31–46.
- Knowles, D. (2002). *Routledge Philosophy Guidebook to Hegel and the Philosophy of Right*. London: Routledge.
- Korsgaard, C.M. (2009). *Self-Constitution: Agency, Identity, and Integrity*. Oxford: Oxford University Press.
- Luckner, A. (2005). *Klugheit*. Berlin: De Gruyter.
- Mackie, J.L. (1977). *Ethics: Inventing Right and Wrong*. Harmondsworth: Penguin.
- McDowell, J. (1994). *Mind and World*. Cambridge, MA: Harvard University Press.

- . (1998). Values and Secondary Qualities, in *Mind, Value, and Reality*. Cambridge, MA: Harvard University Press, 131–150.
- . (2007). On Pippin's Postscript. *European Journal of Philosophy* 15(3): 395–410.
- McNaughton, D. (1988). *Moral Vision. An Introduction to Ethics*. Malden, MA: Blackwell.
- Moyar, D. (2011). *Hegel's Conscience*. Oxford: Oxford University Press.
- Ostritsch, S. (2014a). *Hegels Rechtsphilosophie als Metaethik*. Münster: Mentis.
- . (2014b). Hegel and Searle on the Necessity of Social Reality. *Rivista di Estetica* 57: 205–218.
- . (2017). Hegel, Anerkennung und das Verhältnis von Herr und Knecht. *Philosophische Rundschau* 64(3): 220–240.
- Pippin, R.B. (2002). Leaving Nature Behind. Or Two Cheers for "Subjectivism," in N.H. Smith (ed.) *Reading McDowell: On Mind and World*. London: Routledge, 58–75.
- . (2005). Postscript: On McDowell's Response to "Leaving Nature Behind," in *The Persistence of Subjectivity*. Cambridge: Cambridge University Press, 206–220.
- . (2007). McDowell's Germans: Response to "On Pippin's Postscript." *European Journal of Philosophy* 15(3): 411–434.
- . (2008). *Hegel's Practical Philosophy: Rational Agency as Ethical Life*. Cambridge: Cambridge University Press.
- Quante, M. (2004). *Hegel's Concept of Action*, trans. D. Moyar. Cambridge: Cambridge University Press.
- Rist, J.M. (2004). *Real Ethics: Reconsidering the Foundations of Morality*. Cambridge: Cambridge University Press.
- Searle, J.R. (1995). *The Construction of Social Reality*. New York: The Free Press.
- . (2010). *Making the Social World*. Oxford: Oxford University Press.
- Siep, L. (2007). Hegel über Moralität und Wirklichkeit. *Hegel-Studien* 42: 11–30.
- Sosa, D. (2001). Pathetic Ethics, in B. Leiter (ed.) *Objectivity in Law and Morals*. Cambridge: Cambridge University Press, 287–329.
- Stern, R. (2007). Freedom, Self-Legislation and Morality in Kant and Hegel: Constructivist vs. Realist Accounts, in E. Hammer (ed.) *German Idealism. Contemporary Perspectives*. London: Routledge, 245–266.
- Stevenson, C.L. (1937). The Emotive Meaning of Ethical Terms. *Mind* 46(181): 14–31.
- Velleman, D. (2015). *Foundations for Moral Relativism*, 2nd edn. Cambridge: Open Book Publishers.
- Wallace, R.J. (2012). Constructivism about Normativity: Some Pitfalls, in J. Lenman and Y. Shemmer (eds.) *Constructivism in Practical Philosophy*. Oxford: Oxford University Press, 18–39.
- Westphal, K.R. (2016–17). Hegel, Natural Law & Moral Constructivism. *Owl of Minerva* 49(1–2): 1–44.
- Wiggins, D. (1998). A Sensible Subjectivism?, in *Needs, Values, Truth*, 3rd edn. Oxford: Oxford University Press, 185–214.
- Wood, A.W. (1990). *Hegel's Ethical Thought*. Cambridge: Cambridge University Press.

5 Rawls's Post-Kantian Constructivism

James Gledhill

John Rawls's lectures on "Kantian Constructivism in Moral Theory" (Rawls 1980) constitute the canonical reference point for debates about constructivism in contemporary practical philosophy. Much ink has been spilled over the question of whether and in what sense Rawls's constructivism is Kantian. Moreover, Rawls's approach has also inspired alternative forms of Kantian constructivism, principally those developed by his students Christine Korsgaard and Onora O'Neill. I will argue in this chapter, however, that commentators, whether sympathetic or critical, have been excessively preoccupied with interpreting Rawls's constructivism with reference to the focus of Rawls's attentions, namely Kant. Too little attention, by contrast, has been given to considering the perspective from which Rawls is engaged in a reactualization of Kant's practical philosophy. When one focuses on what it means to adopt such an interpretative perspective, one finds that Rawls adopts a strikingly Hegelian approach to reinterpreting Kant. Or so at least I will argue.

My aims in this chapter are twofold. The first aim is interpretative, seeking to reframe our understanding of Rawlsian constructivism by situating it within a post-Kantian discourse concerned with overcoming unreconciled dualisms in Kant's practical philosophy. Rawls's indebtedness to Hegel has not gone unnoticed, but insufficient attention has been given to similarities in their understanding of the nature and goals of philosophical justification. In particular, areas of overlap between what might be described as Rawls's Hegelian reading of Kant and the post-Kantian interpretation of Hegel pioneered by Robert B. Pippin (1989, 2008) and Terry Pinkard (1996, 2002) remain unexplored.¹ The full breadth of Rawls's philosophical influences becomes particularly apparent when one turns to his *Lectures on the History of Moral Philosophy* (Rawls 2000), which form an indispensable aid for understanding Rawls's constructivism. The lectures testify to the fact that Rawls's approach to normative justification develops not only out of a dialogue with Kant but by tracing a path of thought through Hume, Kant, and Hegel, one in which Kant is himself presented as taking up ideas deriving from Rousseau.

My second aim is systematic. I will argue not only that a post-Kantian Hegelian view of constructivism is best placed to make sense of the full breadth of Rawls's approach, but that it goes further than any extant constructivist approach in attempting to reconcile the tensions faced by a constructivist account of normativity. Rawls's constructivism aims to unite two dimensions that have been developed in divergent directions in subsequent conceptions of constructivism – notably those of Korsgaard and O'Neill – first, the practicality, or motivating force, of normative judgments and, second, their objectivity. The former criterion, emphasized by Korsgaard, understands the authority of normative principles to depend upon their capacity for reflective endorsement. What is distinctive about a post-Kantian conception of constructivism as I will present it, however, is that it seeks to integrate a Kantian constructivist procedure with a developmental conception of self-reflexive social practices. Since on such an account self-legislation is understood in social rather than individualistic terms, such a view can hope to avoid the relativistic pitfalls attendant on a voluntarist view of constructivism and meet O'Neill's demand that constructivism should vindicate an objective conception of practical reason.

In what follows, in Section 1 I begin by taking up this systematic standpoint, contrasting the alternative conceptions of Kantian constructivism developed by Korsgaard and O'Neill. The failure of these contrasting Kantian constructivist approaches to reconcile the practicality and objectivity of practical reason motivates the turn towards post-Kantian approaches. In Section 2, I take up this interpretative perspective, arguing that Rawls's constructivism is not simply Kantian but avowedly post-Kantian, engaging in the same kind of enterprise as Hegel's practical philosophy, at least when one follows a non-metaphysical, post-Kantian interpretation of Hegel. Furthermore, I provide grounds for thinking that such an approach is a compelling way for "us" to reactualize Kant's practical philosophy. Against this background, in Section 3 I turn to Rawls's lectures, arguing, in short, that in the dialectical structure of the lectures, Rawls develops a Hegelian approach in order to reconcile the tension between Hume's naturalistic idea of justice as an evolved social practice and Kant's metaphysical conception of moral autonomy. Finally, in Section 4 I return to the question of whether constructivism can successfully reconcile practicality and objectivity. While Rawls's constructivism comes closest to meeting this goal, I will argue that in so doing it also raises questions about the very ambitions of the constructivist enterprise.

1. Reconciling Practicality and Objectivity in Constructivism

According to constructivism in practical philosophy, principles of practical reason are not dependent upon a "given" external to the standpoint

of self-reflection of practical reason. Constructivists reject the idea both that morality is dependent upon theistic foundations (and other metaphysical variants of moral realism) and naturalistic reductions of morality to facts about human nature. Normativity for constructivists, then, is in some sense made rather than simply discovered.

There is broad, if not universal, agreement concerning this general characterization of constructivism, but beyond this there is ongoing debate. In particular, the two most influential forms of Kantian constructivism developed following Rawls have different emphases. On Korsgaard's characterization, what is essential to constructivism, at the level of both philosophical methodology and individual self-reflection, is an idea of reflexivity. Methodologically, for Korsgaard, constructivism is the idea that normative principles respond to practical problems and can claim to provide authoritative solutions because they are justified through reflecting on the terms of a problem itself (Korsgaard 2008). Thus, constructivism moves from a *concept* that demarcates the parameters of a solution to a problem to a *conception* that offers a particular solution. More concretely, for Korsgaard's Kant, the problem faced by the free will is that to be a will it must have a law, but to remain free this law cannot be external to the will itself. The categorical imperative provides the solution, since, reflexively, the categorical imperative simply describes "what a free will must do in order to be a free will" (Korsgaard 2008: 320).

This understanding of freedom in terms of autonomy has its origins in Rousseau. For Rousseau, the fundamental problem, to which the social contract provides the solution, is to reconcile freedom with authority and social order. In obeying the terms of the social compact, while achieving a higher form of social freedom, one obeys only one's own will and, in a sense, remains "as free as before." As Korsgaard notes, Rawls's principles of justice as fairness respond to a similar problem, seeking to construct fair principles of social cooperation that can be freely endorsed by citizens with a plurality of reasonable conceptions of the good. The principles of justice as fairness "simply describe what a liberal society must do in order to *be* a liberal society" (Korsgaard 2008: 321). In general terms, on a constructivist approach, "our use of the concept when guided by the correct conception *constructs* an essentially human reality – the just society, the Kingdom of Ends – that solves the problem from which the concept springs" (Korsgaard 2008: 324).

In this way, constructivism seeks to identify principles that are authoritative because they are *constitutive* of practical deliberation and not externally imposed. On Korsgaard's own well-known constructivist conception of normativity, the dilemma to be overcome at the level of individual self-reflection is the following. Moral claims stand to us in a relation of authority, but in order to be normative they must make a claim upon *us*; that is, they must survive reflective endorsement (Korsgaard

1996). Motivational internalism of the sort found in Hume and neo-Humeans like Bernard Williams (1981) – which requires normativity to be grounded in human nature and dispositions if it is to make a claim upon us – poses the fundamental normative question. But according to Korsgaard, “a clear statement of the problem is also a statement of the solution” (Korsgaard 1996: 49). The Humean view is one of normativity as reflexivity. Just as, following Williams (1993), reflection can destroy our moral convictions, so we can also meet with reflective success in a process that reinforces our convictions. The solution to the normative problem is therefore to focus on the reflective structures through which we form and value a conception of ourselves, or in other words, our practical identities. Korsgaard famously argues that it is our practical identities as citizens of a Kingdom of Ends that leads to a conception of the right. If successful, this argument would derive Kantian conclusions from Humean internalist premises.

My concern here is with the overall methodological structure of Korsgaard’s approach rather than the way it derives its substantive conclusions, the idea, to put it less charitably, that we can pull a Kantian normative rabbit out of a Humean descriptive hat. Many commentators have questioned whether Korsgaard’s formal characterization of constructivism is sufficient to ground her substantive claims.² An important implication of such a “practical standpoint” conception of constructivism, though, is that constructivism is not synonymous with hypothetical proceduralism (the idea that the correct normative principles for a particular context are those that would be agreed to in a particular hypothetical choice situation) (Street 2010). An appeal to a hypothetical procedure is neither necessary nor sufficient to categorize a view as constructivist. Korsgaard spells out her idea of reflective endorsement without appealing to such a choice situation. Moreover, on this characterization, views that claim to be constructivist simply by virtue of following the idea of hypothetical proceduralism (e.g., Barry 1989: 264–271) should not be so categorized. Rawls of course employs the hypothetical procedure of the original position, but its role is as a device for reflecting upon the constraints that persons act under when acting from the moral point of view. The practical standpoint characterization of constructivism is therefore important for focusing our attention on the role of Rawls’s original position within a process of seeking reflective equilibrium between principles of justice and our considered judgments of justice.

O’Neill’s Kantian constructivism also involves the reflexive construction of normative principles, although rather than emphasizing reflective endorsement on the part of agents, O’Neill is concerned with the reflexive and recursive justification of the universality, and thereby the authority, of practical reason (O’Neill 1990, 1996). In placing the emphasis on the objectivity of practical reason, O’Neill takes the “*self*” in *self-legislation* to apply not to the lawgiving of agents, as in Korsgaard, but

to the reflexivity of reason. To be autonomous, reason must be law-like in form and universal in scope, recognizing no authority external to itself (O'Neill 2003a). O'Neill consequently understands constructivism as justifying principles by reference to necessary conditions of agency and rationality, as opposed to appealing to preferences and desires (O'Neill 2003b, 2015). On this view, it is the idea of the parties in Rawls's original position as rational "agents of construction" that is essential to his view being constructivist.

The contrasting approaches of Korsgaard and O'Neill can be seen as resulting from contrasting views about what is required for a conception of normativity to be constructivist "all the way down." Korsgaard's constructivism can claim to be a deep or radical constructivism on the basis that, on her view, even our most basic reasons can be constructed. As moral agents we determine for ourselves whether a consideration in favor of doing something should be treated as a reason (Korsgaard 2008: 324). Constructivism goes "all the way down," then, when it does not appeal to anything external to such a process of reflective endorsement. But as Korsgaard develops this idea, such a radical constructivism can be seen as coming at the cost of endangering the objectivity to which constructivism might justifiably aspire, and upon which O'Neill insists.³

By contrast, O'Neill argues that it is precisely Rawls's appeal to reflective endorsement, in the form of reflective equilibrium, that explains why his approach *fails* to be constructivist "all the way down." As O'Neill describes it, Rawls develops a constructivist account of the content of practical reason through the original position but offers only a coherence justification of the original position itself through the idea of reflective equilibrium (O'Neill 2003b). On this view, Rawls's justification of practical reason is left to rest on unvindicated considered judgments rather than universal principles. But while it is clear what O'Neill defines her conception of constructivism against, it is less clear in what her own vindication of the authority of practical reason consists. She adverts to the way in which Kant grounds practical reason, and claims to follow this, but one can question whether she succeeds in justifying the categorical demands of morality. Ultimately, in O'Neill's Kantian constructivism, the demand to coordinate a plurality of rational ends through universal principles with global scope can be seen as supported by only an instrumental or teleological justification, serving as a goal or end rather than a necessary presupposition. As such, it remains at the level of a hypothetical imperative and is not a categorical imperative in a Kantian sense.⁴

Reconciling the practicality of normative principles – the demand for internal justification or reflective endorsement – with an understanding of their objectivity can be seen as the fundamental problem for practical philosophy.⁵ In their contrasting approaches to the idea of self-legislation, Korsgaard and O'Neill take divergent paths, Korsgaard focusing on the self and O'Neill on law-likeness. In relation to Rawls, this leads them

to emphasize aspects of his approach – reflective equilibrium and the original position respectively – that are interdependent in Rawls's constructivism. O'Neill is not alone in concluding that Rawls's constructivism ends up "on an uncomfortable knife edge" where it "teeters between idealizing and relativized conceptions of ethics" (O'Neill 1990: 218).⁶ However, beginning from Korsgaard's Humean emphasis on reflective endorsement, and building upon its already present Hegelian resonances, a post-Kantian interpretation of Rawls's constructivism can hope to allay misgivings about the subjectivism of the idea of self-legislation. On such an approach, subjectivity is formed, reflectively endorsed, and reproduced within developing social practices, and reflective equilibrium is understood as a social and historical process.⁷ In Section 3 I will consider how Rawls's Hegelian readings of Hume and Kant can be seen as developing such a view. Before doing so, though, it is first necessary to say enough to render plausible the ideas that Hegel can and should be interpreted as part of a post-Kantian tradition committed to a Rousseauian-Kantian idea of autonomy and that Rawls should be seen as taking forward this post-Kantian tradition.

2. Constructivism and Post-Kantianism

While Kant remains the dominant reference point for debates about constructivism in practical philosophy, as critics of Korsgaard have noted, the philosophical history of reflection upon our capacity for self-reflection does not stop with Kant but proceeds on to Hegel, and indeed Nietzsche (Geuss 1996; Williams 1996). There is an unfortunate separation between work on constructivism in practical philosophy and more historically oriented debates about the grounds of normativity in post-Kantian idealism. As a result, while it is often noted how Rawls, and constructivists influenced by him, do not remain faithful to the letter of Kant's practical philosophy, inadequate attention has been given to the way in which Rawls can be seen as responding to tensions within Kant's position that also became a focus of attention in the post-Kantian tradition.

For schematic purposes, following Karl Ameriks (2000), three camps can be identified in debates about Kant and the Kantian aftermath: pure Kantians, post-Kantians, and traditionalist Kantians.⁸ Pure Kantians claim to offer a view of Kant "purified" of out-of-date or inessential metaphysical elements. O'Neill and Korsgaard can be placed in this category. Post-Kantians, on the other hand, such as Pippin and Pinkard, and also Robert Brandom, focus on how the idea of autonomy was taken up by philosophers after Kant, particularly Hegel. These two lines of thought reinforce one another, sharing an opposition to nonsecular values and metaphysics, and consequently understanding justification in terms of internal procedures of reflective endorsement or reflective equilibrium.

By contrast, Ameriks is a leading representative of a “controversial traditionalism” (Zuckert 2004), traditional in seeing morality as having a metaphysical grounding, but controversial in the way in which it flies in the face of radical Enlightenment humanist ideas of autonomy.⁹

As a matter of historical reconstruction, Ameriks’s traditionalist metaphysical interpretation of Kantian autonomy is persuasive. Ameriks emphasizes that while for Kant the moral law is not external to our essential nature as rational beings, our rationality is not only *in us*; the moral law applies for any rational being and not just human selves. He describes his understanding of the Kantian conception of autonomy as metaphysical, but moderate as opposed to absolute. It is metaphysical in asserting our absolute freedom, but it is moderate in not demanding that this freedom be given an absolute foundation. Ameriks notes that it was Kant’s successors, first Reinhold and then Fichte and Hegel, who “absolutized” Kant’s notion of autonomy in order to, as they saw it, “complete” Kant’s Copernican revolution in philosophy. It was a post-Kantian demand that philosophy must achieve a unified, all-inclusive system in order to be absolutely autonomous. Now it might seem counterintuitive for Ameriks to refer to his view as moderate, given that it countenances an expansive metaphysical framework. But this underscores the fact that judgments of ambition and modesty cannot be made from a neutral standpoint. Instead, as I will discuss further in Section 4, it is necessary to come to terms with the overall “economy of ambition” of a systematic philosophy. Pure Kantians and post-Kantians disclaim any metaphysical ambitions, but in so doing they take on the radical justificatory challenge of showing how morality can be binding when it is self-legislated.

While compelling as a historical account of Kant’s practical philosophy, such a contextual account is nevertheless only the first step in a process of philosophical reconstruction. Following Rawls, while in interpreting historical writers it is first necessary to “think ourselves into each writer’s scheme of thought,” and “interpret them in the best way their point of view seems to allow,” we then inescapably “judge their solution from our point of view” (Rawls 2007: 103–104; see also Rawls 2000: 17–18). Far from demonstrating historical naïvety or arrogance, Rawls’s practice of “conversing with the tradition” (Nussbaum 1999) can be seen as a thoroughly hermeneutical approach, reading Kant, and Hegel, from the point of view of “our problems.”¹⁰ Furthermore, a defense of Rawls’s reading of Kant can be buttressed by showing that, even though Rawls’s influence has been as the founder of a “pure Kantian” school of interpretation, his own position is best understood as a *post*-Kantian view.¹¹

If such a line of interpretation seems unlikely, it is only because post-Rawlsian practical philosophy is yet to fully escape the legacy of earlier reactions against Hegelian thought, which pit Hegel as a “communitarian” opponent of “Kantian liberalism” and take little account of the way Hegel’s position moves beyond this unhelpful dichotomy (Williams

2001).¹² What is perhaps the most well-known “Hegelian” interpretation of Rawls, namely, Richard Rorty’s interpretation of Rawls’s political liberalism in terms of a naturalistic Deweyan pragmatism (Rorty 1991), does little to correct this view. While Rawls acknowledges that he shares Dewey’s aim of overcoming Kantian dualisms, he associates himself with Dewey’s early Hegelianism in contrast to his later naturalism (Rawls 1980: 304). In contrast to such communitarian and pragmatist interpretations, I will focus on a reading of Hegel as part of a modern rational agency tradition, concerned with freedom and the deliberative capacity of practical reason through which freedom can be realized, that can be seen as extending through Rousseau, Kant, Fichte, Hegel, and Marx, and as being continued by Rawls and Habermas (Pippin 2008: 21).¹³

The seminal idea of the rational agency tradition is Kant’s idea that the authority of reason rests on nothing but reason itself. For Kant’s successors, reason’s being “absolutely supreme” meant its possession of a self-authorizing authority. Rawls can be seen as subscribing to such a view when he describes “Kant’s radical sense of autonomy” in which pure practical reason would lose its “sovereign authority as the supreme maker of law” if it were seen as dependent upon any “independent object” (Rawls 2000: 229). Following this post-Kantian line of interpretation, however, Kant’s own view of autonomy gives rise to a “Kantian paradox.” As Pinkard puts it, this paradox

arises from Kant’s demand that, if we are to impose a principle (a maxim, the moral law) on ourselves, then presumably we must have a *reason* to do so; but, if there was an antecedent reason to adopt that principle, then that reason would not itself be self-imposed; yet for it to be binding on us, it had to be (or at least had to be “regarded” to be, as Kant ambiguously stated) self-imposed.

(Pinkard 2002: 59; see also Pippin 2008: 18–19)

Post-Kantians take Kant’s answer to how the moral law could make an unconditional claim on us – through a self-legislated “fact of reason” – to restate the paradox rather than resolve it. Korsgaard’s attempted solution to the Kantian paradox, through appealing to the presuppositions of our practical identities as moral agents, can be seen as somewhat Fichtean in nature (Pippin 2008: 88). Hegel’s approach, by contrast, at least on a post-Kantian interpretation, is not so much to seek a final resolution to the paradox as to show that we can and do live with it in practice.

Hegel reframes the idea of autonomy in developmental terms as a social and historical achievement of practices in which we can recognize ourselves as both authors and subjects of intersubjective laws (Pinkard 2002: 217–245; Pippin 2008: 65–118). Rawls’s theory of justice as fairness can plausibly be interpreted in similar terms. It aspires to hang together

in such a way that it constructs a framework of political institutions within which citizens can freely pursue their conceptions of the good in accordance with principles that allow others to do so on the same terms, recognizing such reasonable principles of justice as authoritative by virtue of the fact that they reflect their sense of justice, being principles to which they would collectively agree as free and equal persons.

Notwithstanding his criticisms of Rousseau, Hegel can be seen as taking forward a Rousseauian conception of social freedom (Neuhouser 2000). The developmental, historical story that he tells seeks to answer the question of what normative forms are consistent with the nonnatural, rationally self-determining status of human subjects. On such a post-Kantian interpretation, spirit (*Geist*) is not understood in the metaphysical terms of traditional interpretations of Hegel (see especially Taylor 1975). Rather, Hegelian objective rationality can be understood in the Sellarsian way popularized by Brandom as an “achievement of a kind of success in the institution-bound practices of justifying ourselves to each other, ‘the game of giving and asking for reasons’” (Pippin 2008: 32).

Hegel is an internalist about practical reason, but he argues for the inseparability of subjective individual good and its internal reasons and objective common good and its external conditions. In asking what principles of practical reason are congruent with our nature as free and equal persons, “like Kantian constructivists,” for Hegel, “the answer must have to do with those norms that realize and embody the condition of their very possibility: that they exist and are maintained only as legislated, only insofar as ‘spirit is a result of itself’” (Pippin 2008: 64). Since objectivity is understood as an achievement of an institution-bound practice of justification, such an approach can respond to concerns about the subjectivism of Korsgaard’s constructivism. It does not suggest: “I am only bound because I bound myself, so I hereby unbind myself” (Pippin 2008: 74). Once practical identities are seen as socially and historically formed, then subjectivity will require a developmental basis, rather than the deductive basis it is given by Korsgaard. In extending the Kantian requirement of reflective endorsement beyond the self to encompass the normative authority of the practices and institutions characteristic of late modernity, as Pippin provocatively concludes, “Hegel may prove to be more Kantian than Kant” (Pippin 2008: 91).

I will return to the Hegelian idea of autonomy in terms of stable self-legislated norms, where “spirit is a result of itself,” in the context of Rawls’s lectures on Hegel. In general terms, though, such an approach might immediately seem to be subject to serious objections, both as a development of a Kantian idea of autonomy and in itself. Many critics have seen Rawls’s political liberalism as simply an abandonment of his earlier Kantianism in favor of some form of contextualism, or even relativism. In a similar way, it might be thought that a post-Kantian Hegelian constructivism abandons the normative justificatory project of Kantian

constructivism in favor of the descriptive project of understanding the development of modern social practices legitimated in accordance with the idea of autonomy. In place of giving an answer to the Kantian paradox, then, a post-Kantian constructivism changes the subject. This is partly right, but only partly. Certainly, Hegel's idea that it is the modern experience of "groundlessness" that gives rise to the fundamental modern problem of self-authorizing – or self-grounding – normative justification is an idea only adumbrated by Kant (see Habermas 1987; Pippin 1999; Pinkard 1996). But it is also the case that understanding what principles are congruent with the conception of persons as autonomous that develops in modernity is not simply a descriptive task.

A helpful intuitive model for bringing this out, and one with direct relevance to Rawls's project, is offered by the analogy Brandom draws between Hegel's practice-based approach to justification and the development of the practice of common law (Brandom 2009: 84–88). Unlike statute law, the practice of common law has no external initial principles that lay down how concepts are to be applied within the practice. Concepts are given content only through their actual application by judges over the years: they are "case law all the way down" (Brandom 2009: 84). This means that in deciding cases, judges are not simply *applying* concepts but are at the same time *developing* and *determining* them. By recognizing the authority of particular past decisions as precedential for deciding a case, judges claim authority over future decisions by establishing what is potentially a new precedent. This claim can appeal to no authority beyond the practice itself and can only be vindicated by being recognized as precedential by future judges. Concepts in common law, then, are neither norms to be discovered independently of being made by judges nor simply facts to be predicted on the basis of past decisions.

Rawls's political liberalism presents the position of the political philosopher within a tradition of democratic constitutionalism as analogous at a more abstract level to that of the judge within a practice of common law. The political philosopher begins with ideas from the public political culture, and the texts that elaborate them, that are socially recognized as precedential. In setting out a procedure framed by these ideas that constructs a political conception of justice, the political philosopher makes a claim to offering a further interpretation and development of the concepts that are constitutive of our practices of democratic constitutionalism. This is a claim whose authority can depend on nothing other than its being recognized as authoritative by citizens collectively.

I will return to this idea later. The main burden of this section has been to show that there is no barrier to interpreting Rawls's appropriation of Kant along post-Kantian, Hegelian lines. Rawls was always clear that in Kantian constructivism, "the adjective 'Kantian' expresses analogy and not identity" (Rawls 1980: 304). Amending or adding to Kant can be "Kantian in spirit, provided that . . . it doesn't compromise the essential

elements of his doctrine" (Rawls 2000: 174, n.4). Moreover, Rawls aligns his conception of justice as fairness not simply with Kant but with a tradition of the "liberalism of freedom" that also comprises Hegel (and, less straightforwardly, J.S. Mill) (Rawls 1999: 15, n.7, 127, 2000: 343, 349, 366).¹⁴ What the essential elements of Kant's doctrine consist in is of course an interpretive question and one that we inevitably answer from our own standpoint. In the next section, with the aid of Rawls's lectures, I will argue that Rawls's constructivism is best understood as a deliberately post-Kantian approach that adapts a Kantian "ethos of autonomy" to the circumstances of a modern constitutional democratic society.¹⁵

3. Post-Kantian Constructivism in Rawls's *Lectures on the History of Moral Philosophy*

In the previous section I sought to provide an alternative post-Kantian framework for making sense of Rawls's constructivism. On this basis, we are now in a position to turn to Rawls's *Lectures on the History of Moral Philosophy*. Some care needs to be taken in using the lectures to better understand the nature and development of Rawls's constructivism. Rawls did not intend his lectures for publication, and he did not produce versions of his Hegel lectures for distribution (see Rawls 2000: xiv). However, given the way in which Rawls's thinking developed through "conversing with the tradition," any concerns on the first score are outweighed by the behind the scenes insights the lectures afford into the development of his approach. Moreover, as Barbara Herman suggests in her editor's foreword, the Hegel lectures are a key part of this story. There is a sense in which "the Hegel lectures sketch the bridge between Kantian moral thought and the liberalism of Rawls's own work" (Rawls 2000: xv).¹⁶

The Hegel lectures shed light on three important aspects of Rawls's work: first, the way in which freedom is realized *in* the social world through a system of historically developing social and political institutions; second, the role of religion in civil society and the state; and, third, the practical role of political philosophy within the public political culture of a constitutional democracy. Unifying all three of these Hegelian aspects of Rawls's work is a commitment to the role of political philosophy in constructing a framework of social institutions within which we can be reconciled to our social world under conditions of reasonable pluralism (see Rawls 1999: 124–128, 2001: 3–4, 2007: 10–11). The Hegelian idea of reconciliation is easily misunderstood as resignation to the status quo and, partly for this reason, I follow Frederick Neuhaus in focusing on Hegel's concern with a social order that actualizes our capacity for social freedom and is thereby *worthy* of reconciliation (Neuhaus 2000: 7–8).

Following this idea, my claim is not simply that Rawls's liberalism is Hegelian in the aforementioned substantive respects. More fundamentally, I will argue that the methodological approach of Rawls's lectures

is Hegelian in the way it seeks to understand the actualization of autonomy in our social world through reconciling the positions of Hume and Kant. Rawls prepares the way for this reconciliation in the introductory lecture by resisting the idea that Hume and Kant represent contrasting "sentimentalist" and "rationalist" Enlightenment traditions.¹⁷ Notwithstanding their differences, Rawls argues that at a basic level they agree that morality arises from human nature and social life, and that the capacity for reflection upon the requirements of morality is possessed by all reasonable and conscientious persons, who are by their nature capable of acting upon such principles without external sanctions (Rawls 2000: 11).¹⁸

As far as the lectures themselves are concerned, Rawls begins with five lectures on Hume, focusing on his moral psychology, the idea of justice as an artificial virtue, and his critique of rational intuitionism. Two lectures on Leibniz, focusing on his metaphysical perfectionism as an example of rational intuitionism, serve as a foil for four ensuing lectures on Kant's moral constructivism and its idea of autonomy. Constructivism is presented here as offering a superior authentication of the moral law to Kant's appeal to the "fact of reason." Finally, there are the two Hegel lectures, on Hegel's *Philosophy of Right* and its idea of ethical life.

Turning to the Hume lectures, there are immediate grounds for seeing Rawls as giving a "Hegelian reading of Hume," for he finds in Hume an idea of reflective stability that anticipates Hegel (Lange 2009b). For Hume, justice is a convention, regulated by public rules that express a common interest, and supported by an idea of reciprocity. While for Hume justice is an artificial or constructed virtue, its source in our sense of justice is natural. As Rawls puts it – establishing the theme later further developed by Korsgaard – Hume maintains that his science of human nature "is reflectively stable: that is, when we understand the basis of our moral sense – how it is connected with sympathy and the propensities of our nature, and the content of our moral judgments – we confirm it as derived from a noble and generous source" (Rawls 2000: 211, see also 100).

A further similarity between Hume and Hegel is that, for both, practical reflection arises from the practical problems of the circumstances of social life. The Humean circumstances of justice, from which Rawls's theory of justice also begins, are circumstances of moderate scarcity and limited altruism. Rawls remarks that they might equally encompass the collective self-centeredness of groups founded on religious and philosophical doctrines, and that Hume's view "allows for it" (Rawls 2000: 59). Indeed, Rawls's "political turn" follows Hegel in recognizing the reasonable pluralism of religious views that gave rise to the principle of religious toleration as among the "subjective circumstances of justice" (Rawls 1985: 412), or what Rawls later calls the "circumstances of the social world" (Rawls 2000: xxi).

Most fundamentally, though, Rawls's Hegelian reading of Hume picks up on the way in which the methodology of Hegel's *Philosophy of Right* follows a pattern of problems and resolutions also found in Hume's *Treatise of Human Nature*, and which, as we have seen, Korsgaard takes to be the defining feature of constructivism. This methodological strategy consists of showing that certain problems of justice, particularly social coordination problems regarding property and the distribution of goods, are inescapable, and therefore that their legitimate solution is necessary (Westphal 2010, 2016). Following this line of interpretation, Hegel can be seen as sharing a similar starting point to Hume in the problems raised by the circumstances of justice, but he goes on to address these problems differently, employing a Kantian constructivist procedure for spelling out and justifying the principles that can resolve these problems legitimately. This Kantian constructivist procedure is concerned with constructing universal principles of justice that can be endorsed by persons as free and equal citizens. In this way, "Hegel's theory of *Sittlichkeit* integrates the normativity of Kant's constructivism with our concrete social life" (Westphal 2010: 131–132).

Rawls follows Hegel in believing that addressing practical problems of justice requires a justificatory rather than simply quasi-descriptive approach. Where Hume and neo-Humean views of motivational internalism go wrong is in failing to recognize the capacity of moral agents to act above the order of nature in accordance with personal and social ideals (Rawls 2000: 307). Principle-dependent desires can find a foothold in agents' subjective motivational sets, most importantly a desire to act according to reasonable principles of practical reason that regulate how a plurality of agents relate to one another. On Rawls's interpretation, Kant means to make us aware of, and arouse in us a desire to act on, not simply a principle-dependent but a conception-dependent desire. A conception-dependent desire connects principle-dependent desires with a moral ideal. In Kant, this is a "desire, belonging to us as reasonable persons, to act from an ideal expressible in terms of a conception of ourselves as autonomous in virtue of our free reason" (Rawls 2000: 148; see also Rawls 1996: 81–86). At this juncture, Rawls gives Kant's Kingdom of Ends a democratic, Rousseauian twist. He comments that Kant's idea, "basic to much democratic thought," was "much influenced by Rousseau," to whose ideas Kant sought to "give deeper philosophical expression" (Rawls 2000: 160).¹⁹ Specifically, this idea consists in representing the moral standpoint from which we view ourselves as legislators proposing moral principles for a well-ordered and stable social world.

In his representation of this moral standpoint, Rawls departs from Kant in two key respects, both of which bring his approach into line with that of a post-Kantian interpretation of Hegel. The first departure is the way that, in contrast to Kant, Rawls's constructivism, as he puts it in his Dewey lectures, "assigns a certain primacy to the social" by focusing on

the basic structure of society as the first subject of justice (Rawls 1980: 339).²⁰ For Kant, while the moral law applies to all reasonable and rational beings, the categorical imperative specifies how the moral laws applies to finite beings with needs. Going further, Rawls argues that we need a procedure by which the categorical imperative can be applied to us as “beings having a particular place in our social world and situated in the order of nature” in order to “bring to life and to make intelligible Kant’s characteristic deeper ideas” (Rawls 2000: 164–165). This is provided by the categorical imperative or CI-procedure. Rawls takes the Formula of Universal Law to be the most usable “for us” as democratic co-legislating citizens. Therefore, while Kant employs the categorical imperative for testing personal maxims, Rawls employs it for constructing a conception of justice for the basic structure of our social world.²¹

In a second stage, and in a second departure from Kant, Rawls takes up the Formula of a Kingdom of Ends to address the question of whether agents not only can will an “adjusted social world” in accordance with a conception of themselves as free and equal but also can autonomously endorse its principles on the basis of their conceptions of the good. He argues that in this respect Kant fails to recognize the need for “the mutual recognition of the moral law in the public role of a society’s moral culture” and adds that “Hegel will stress just this point” (Rawls 2000: 209). Rawls’s second departure from Kant, then, is the further aspect of the primacy of the social contained in the requirement of the full publicity of a conception of justice (Rawls 1996: 340).

We now reach the most fundamental issues about the justification of practical reason. On Rawls’s interpretation of Kant’s moral constructivism, practical reason “constructs for the will its own object out of itself,” the public moral order of a possible realm of ends, and as a result “does not rely on a prior and antecedent order of values” (Rawls 2000: 226). Rawls suggests that Kant himself gave up his appeal to a “fact of reason” in favor of a coherence account of the authentication of practical reason. From the perspective of the CI-procedure, though, “not everything can be constructed.” This procedure has its basis in conceptions of the person and society that are not constructed but rather “elicited from our moral experience” (Rawls 2000: 240). So can Rawls’s own constructivism go “all the way down”? If one were to conclude the story at this stage, it might appear that Rawls’s constructivism is vulnerable to O’Neill’s criticism that in appealing to reflective equilibrium it rests on unvindicated considered judgments. For a more complete answer, however, it is necessary to turn finally to the Hegel lectures, which recapitulate Rawls’s own move from Kantian to political constructivism.

Immediately striking is Rawls’s interpretation of Hegel as a “moderately progressive reform-minded liberal” (Rawls 2000: 330, 349). Indeed, Rawls derives significant insights from Hegel in developing his understanding of the regime type of property-owning democracy that most

adequately realizes the principles of a “liberalism of freedom.” In the present context, however, the most significant aspect of Rawls’s Hegel lectures is the focus of the first lecture on Hegel’s idea of autonomy. This is the idea that, as Rawls summarizes it, “The free will is the will that wills itself as the free will” (Rawls 2000: 330).²² Combining Rawls’s discussion here with his summary at the start of his second lecture, there are four conditions to be met for the free will to be free:

1. The free will wills a system of political and social institutions within which it can be free. Here institutions are understood as forms of life as lived by human beings.
2. The free will wills the ends of this system of political and social institutions, and it wills these ends as its own.
3. The free will is therefore *educated* to the concept of itself as a free will by various public features of the arrangement of those institutions. Note here the significance of education (*Bildung*).
4. These various public features that thus educate the free will are themselves features that fully express the concept of a free will (Rawls 2000: 338, 349–350).

We might interpret the structure and development of justice as fairness in light of these four conditions.²³ In Part One of *A Theory of Justice*, the original position can be seen as representing the idea of the free will, which, following the Kantian interpretation of justice as fairness, is one that acts above the order of nature, and the principles that it wills. Part Two constructs the institutional framework within which the free will can be free and outlines the concomitant ends of these institutions. Finally, Part Three takes up the question of stability, the process of formation through which the free will is educated to a conception of itself as the free will, or “education for autonomy” (Rawls 1971/1999: 516/452). The fourth condition – that the features of social institutions that educate the free will must fully express the concept of a free will – is only separated out from the third in Rawls’s summary of Hegel’s idea of autonomy in his second Hegel lecture, but he adds that “a strict interpretation . . . is vital” (Rawls 2000: 350). Indeed, this condition promises to shed light on Rawls’s political turn, which introduces the idea of an overlapping consensus in response to a second question of stability, that of not only whether justice as fairness can generate its own motivational support but also whether it can be realized under conditions of reasonable pluralism.

Rawls’s construction of his theory, and its further development, proceeds in a self-reflective way, reflexively envisaging a role for itself in the construction and reproduction of a just society.²⁴ While the relationship between *Theory* and *Political Liberalism* has received increasing attention, alongside focusing on Rawls’s retrospective dissatisfaction with what can be seen as his answer to the third condition mentioned earlier, it is

necessary to place this in the context of the new demands of the fourth condition. In light of his clarification that justice as fairness is a political conception, Rawls remarks that his Dewey lectures would have been better titled "Kantian Constructivism in Political Philosophy" (Rawls 1985: 389, n.2). In *Political Liberalism*, this becomes political constructivism. A clue to what Rawls might mean by this shift is offered by his observation that, for Hegel, "many of the traditional ambitions of moral philosophy are to be brought within those of political philosophy" (Rawls 2000: 330). With the move to political liberalism, Rawls, like Hegel, explicitly restricts his focus to moral principles that constitute the basic structure of our social world, as required by a post-Kantian idea of autonomy. However, in a revised "economy of ambition," the reverse side of this modesty is a more ambitious account of the practical role of philosophy in relation to modern social practices. As Rawls puts it: "In framing a political conception of justice so it can gain an overlapping consensus, we are not bending it to existing unreason, but to the fact of reasonable pluralism, itself the outcome of the free exercise of free human reason under conditions of liberty" (Rawls 1996: 144). It is in this sense that it is necessary to reflexively "apply the principle of toleration" – the origins of which Rawls follows Hegel in locating in the Reformation – "to philosophy itself" (Rawls 1985: 395). In a "Hegelian *Doppelsatz*: We need to accommodate the ideal to the real because the real manifests the ideal" (Cohen 1993: 288).²⁵

This response to the demands of the fourth condition is driven by the requirement for full publicity. That is, the conditions that educate the free will to a conception of itself as a free will must themselves be capable of being freely endorsed through an internal process of reflective endorsement, rather than being seen as an enforced constraint on the will. It is a condition of citizens "realizing their freedom as fully autonomous, politically speaking. It means that in their public political life nothing need be hidden" (Rawls 1996: 68). Acknowledging this demand represents a radicalization of a Kantian idea of autonomy in a post-Kantian, Hegelian direction. It requires moving beyond a Kantian comprehensive conception of constitutive autonomy to an idea of "doctrinal autonomy" (Rawls 1996: 98; see also Audard 2007). A political conception that achieves doctrinal autonomy fully expresses the concept of a free will by representing principles of justice as based upon principles of practical reason in union with political conceptions of citizens as free and equal and of society as a fair system of cooperation that are implicit in the public political culture of a modern democratic society. As a result, there are no obstacles to such a conception being autonomously reflectively endorsed by citizens, whatever their comprehensive doctrines. Political constructivism can go "all the way down," then, when, as part of a process of reflective equilibrium and in a virtuous circle of reciprocal justification, it harmonizes with the construction of social

morality that comes up to meet it, so to speak. A political conception of justice that achieves “stability for the right reasons” (i.e., on the basis of collective reflective endorsement of principles of political right) is one that realizes a post-Kantian, Hegelian conception of autonomy. It exists and is maintained only as legislated, only insofar as “spirit is a result of itself.”²⁶

4. Post-Kantian Constructivism’s Economy of Philosophical Ambition

In the previous section, I drew upon the post-Kantian interpretation of Hegel developed by Pippin and Pinkard to provide a post-Kantian, Hegelian interpretation of Rawls’s constructivism, using Rawls’s *Lectures on the History of Moral Philosophy* to better understand the nature and development of his constructivism. What are the implications of this interpretation for resolving systematic questions about how constructivism is best understood and whether it can reconcile practicality and objectivity? The analysis suggests that Korsgaard’s practical standpoint characterization of constructivism faithfully reflects the basis of Rawls’s constructivism in an idea of reflective stability. However, in contrast to Korsgaard’s focus on the practical identities of individual agents, Rawls describes a “practical identity” between expressing our nature as free moral persons and the desire to act justly according to the principles of justice chosen in the original position (Rawls 1971/1999: 572/501). Korsgaard can be seen as collapsing back into the identity of the self a conception of ourselves as citizens of a realm of ends that Rawls, like Hegel, argues we must be educated to by social institutions. Indeed, focusing on the social basis of Rawls’s account in a conception of social practices provides grounds for responding to the concerns about the subjectivism of self-legislation articulated by O’Neill.

What does it mean for constructivism to go “all the way down” on this conception? It is distinctive of Hegel’s philosophical system that it possesses a circular structure. Hegel remarks:

Philosophy forms a circle. It has an initial or immediate point – for it must begin somewhere – a point which is not demonstrated and is not a result. But the starting point of philosophy is immediately relative, for it must appear at another end-point as a result. Philosophy is a sequence which is not suspended in mid-air; it does not begin immediately, but is rounded off within itself.

(Hegel 1991: §2A)

I would suggest that it is in such terms that we should understand the place of Rawls’s constructivist procedure of the original position within a social process of reflective equilibrium. Constructivism could go “all

the way down” when it is rounded off within itself, that is, when a conception of justice finds itself reflected in citizens’ sense of justice and is collectively endorsed.²⁷ Rawls’s constructivism will thereby not remain suspended in mid-air, either by appealing to unvindicated practical principles or unvindicated considered judgments. The Hegelian dimensions of Rawls’s constructivism becomes more pronounced as Rawls pursues a retrospective understanding of how the historical development of our social and political practices provides the basis for the reflective endorsement of justice as fairness in a further realization of the ideas that are constitutive of our practices of constitutional democracy.

Political philosophy, as Rawls understands it, aspires to “systematic and complete statements of fundamental democratic doctrines and ideas.” It has no authority beyond that of shared human reason, and whether a work of political philosophy succeeds in appealing to this authority “is a collective judgment, made over time, in a society’s general culture, as citizens individually, one by one, judge these texts worthy of study and reflection.” However, texts that are unusually successful in this may take their place in the public political culture as “part of public lore and a fund of society’s basic political ideas.” There are clear signs, I think, that Rawls sees the full justification of justice as fairness as depending upon its making such a contribution (Rawls 2007: 1–4). The Hegelian dimensions of Rawls’s approach have been taken to be expressive of a modest understanding of the justificatory claims of political philosophy (Laden 2001, 2011). However, it is necessary to keep in view the practical ambition that is the reverse side of this apparent philosophical modesty. As Patrick Neal insightfully recognizes, “The ‘practical turn,’ which most commentators have taken to be a retreat from the ambition embodied originally in *A Theory of Justice*, appears instead as the mark of an even bolder enterprise than the original – an attempt not merely to theorize about justice, but to realize it” (Neal 1994: 111).

Conclusion

Rawlsian constructivism aspires to justify substantive principles of practical reason in a manner that is both objective and expresses a commitment to the Kantian value of autonomy, according to which the authority of reason depends upon nothing other than its capacity for reflective endorsement. I have argued that this aspiration explains why Rawls’s post-Kantian constructivism represents the most fully developed attempt to understand how a constructivist conception of normativity could be constructivist “all the way down.” But the analysis I have offered suggests that in taking increasing inspiration from Hegel in pursuing this problem, Rawls comes to share something of Hegel’s philosophical ambition: the ambition for an ultimate reconciliation of theory and practice. It is in this sense that Rawls’s political liberalism can indeed be seen as an

“aspiration for the political philosophy to end all political philosophies” (Kukathas and Pettit 1990: 151). And arguably for Rawls, as for Hegel, this leads to an aporia in which the theory is unable to understand itself as being subject to further self-reflection and self-criticism in accordance with the procedure of the self-reflection of practical reason that it itself expresses. In probing the limits of the ambitions of constructivism, it may well be that the most important lesson to be derived from Rawls’s post-Kantian constructivism is to forswear the constructivist ambition to justify substantive principles of practical reason in favor of a purely procedural reconstructivism. What exactly that involves is another story, or rather perhaps the necessary next chapter in the story of the unfolding attempt to understand the self-authorizing authority of practical reason.²⁸

Notes

1. On the Hegelian aspects of Rawls’s work, see in particular Chapman (1975); Kukathas and Pettit (1990: 144–148, 154); Schwarzenbach (1991); Audard (2007: 54–56, 78); Sensat (2007, 2016); Ege and Igersheim (2008); Lange (2009a); Schaub (2009); Laden (2001); Bercuson (2014); Nielsen and Hartz (2018). A number of Hegelian critiques of Rawls are also alive to similarities; see Hoy (1981); Buchwalter (2011); Houlgate (2001). On non-metaphysical post-Kantian interpretations of Hegel, see Redding (2018); Lumsden (2008). There are realist critiques of post-Kantian constructivist interpretations of Hegel as much as of Kant; see, e.g., Stern (2007).
2. Such skepticism has led to the development of formal, metaethical conceptions of constructivism, so-called Humean as opposed to Kantian constructivisms, that impose only the criterion of pursuing reflective coherence among our normative judgments (Street 2012). Whether Korsgaard’s approach is ultimately persuasive or not, she argues convincingly that constructivism problematizes any categorical distinction between metaethics and normative ethics, for the “attempt to specify the meaning and reference of an ethical concept will point fairly directly to practical ramifications” (Korsgaard 2008: 322, n. 44).
3. As Kerstin Budde argues, since “Korsgaard’s theory is ultimately dependent on the affirmation of our ‘humanity’ as ultimate identity, which becomes morally authoritative for us only when we endorse it,” it is in danger of giving up “the strong claim to objectivity” made by O’Neill (Budde 2009: 220, n. 1).
4. See Budde (2009); Besch (2011); O’Shea (2015). Cf. the development of O’Neill’s approach by Westphal (2016), although it is doubtful that Westphal’s “natural law constructivism,” while avoiding moral realism, successfully avoids foundationalism, thus calling into question its Hegelian credentials. See Alznauer (2016).
5. As Carla Bagnoli puts it, “[T]he very problem of contemporary ethics is the attempt at ‘reconciling’ the apparent practicality and objectivity of ethical judgments” (Bagnoli 2002: 125).
6. Kenneth Westphal endorses this criticism (Westphal 2007: 29, n. 40).
7. Frederick Neuhaus observes that Korsgaard’s claim to find the seeds of the idea of practical identity in Kant “is an intriguing suggestion, and it may even be true, but it is indisputable that it is Hegel who first explicitly articulates

the idea of a practical identity" (Neuhouser 2000: 304–305, n. 26). Korsgaard has resisted arguments for developing her constructivism in a Hegelian direction (see Moland 2011; Bird-Pollan 2011), arguing that this leads to an "overly politicized conception of morality" that neglects the way in which constructing outward intersubjective relations of respect depends upon an inner integrity of the constitution of the self (Korsgaard 2011: 393–394; see also Korsgaard 2009). In Section 3, I will argue, however, that Rawls had good reasons for moving in this Hegelian direction.

8. Ameriks does not use the term "traditionalist" to describe the third position, to which he himself subscribes, but he does describe himself as adopting a "more traditional Kantian perspective" (Ameriks 2000: 9).
9. For a traditionalist, anti-constructivist view of Kant's practical philosophy, see Kain (2004). See also Stern (2012) for a moral realist response to the way in which the Kantian idea of autonomy is understood by Rawls and post-Kantian interpretations of Hegel.
10. This idea recurs in Rawls's lectures on Kant. As Pippin argues in response to the charge of ahistoricism, "[T]he alternatives are not either pious paraphrase or radical, text-free reconstruction" (Pippin 2008: 33, n. 34).
11. When not actively critical, the work of Pippin and Pinkard can itself be seen as insufficiently alive to these similarities. See, for example, Pippin (2010: 516).
12. In his lectures, Rawls considers Hegel's legacy as a critic of liberalism, arguing that it is only in a metaphysical view of *Geist* that Hegel is at variance with a "liberalism of freedom." Rawls argues, however, that most of Hegel's practical philosophy can "stand on its own," independent from this metaphysical system (Rawls 2000: 365–371, 330).
13. Rational should be understood here in the broad sense of *vernünftig*, and therefore as encompassing both the rational and the reasonable in Rawls's sense. See Rawls (2007: 164–165).
14. Regarding J.S. Mill, it is worth noting Rawls's emphasis on Mill's departure from Benthamite utilitarianism under the influence of Samuel Taylor Coleridge (Rawls 2007: 254–258).
15. On the idea that Rawls should be understood as taking forward a "Kantian ethos," see Tampio (2007).
16. Herman remarks upon "Rawls's long-standing interest in Hegel" (in Rawls 2000: xiv, n. 3). According to Samuel Freeman, though, "Hegel had little direct influence on Rawls's initial working out of the main ideas of *A Theory of Justice*" (Freeman 2007: 25). While it may be a retrospective appreciation, Rawls does remark that *Theory* "follows Hegel . . . when it takes the basic structure of society as the first subject of justice" and focuses on "the deep social rootedness of people within an established framework of their political and social institutions" (Rawls 2000: 366). Whatever the truth of this, however, it is plausible to think that the initial influence was more indirect, through the work of philosophers such as Dewey and F.H. Bradley (see Schwarzenbach 1991: 565, n. 4). Part Three of *Theory* also testifies to Rawls's familiarity with the work of idealists such as J.N. Findlay and Josiah Royce (Rawls 1971/1999: esp. 400, n. 2/351, n. 2).
17. For a later such argument, directed against Rawls's position, see Fraser (2007).
18. Here one can detect the reciprocal influence between Rawls's work and that of J.B. Schneewind. See especially Schneewind (1998).
19. O'Neill's observation that Rawls's constructivism is, in her terms, "more Rousseauian than Kantian, more civic than cosmopolitan" (O'Neill 2003b:

- 353) should therefore come as no surprise. Rawls always emphasized the idea of autonomy in Kant's ethics as opposed to generality and universality (Rawls 1971/1999: 251/221). In this respect, Ernst Cassirer's Rousseauian interpretation of Kant can be seen as a precursor to Kantian constructivism. Cassirer argues that "the social bond must bind together freely acting persons, not dead things . . . it cannot be something imposed upon the wills of those persons from without; they must constitute and create it themselves" (Cassirer 1945: 31). Rawls cites Cassirer in observing: "Kant sought to give a philosophical foundation to Rousseau's idea of the general will" (Rawls 1971/1999: 264/omitted).
20. Michael Hardimon employs the term "social world" as equivalent to Hegel's "ethical world" and notes that as such it is "very closely related to Rawls's idea of the 'basic structure'" (Hardimon 1994: 16).
 21. This can be seen as a post-Kantian move "from maxims to practices" (Pinkard 1999).
 22. Rawls notes that this combines Hegel's formulations at Hegel (1991: §§ 10, 27).
 23. While the Hegelian dimensions of Rawls's work become more pronounced, they can be seen as present from the start. The Hegelian presuppositions and structure of *Theory* are insightfully discussed by Chapman (1975) and Schwarzenbach (1991).
 24. As Julius Sensat notes, this should be seen as "a deep fact about it, one that is to a large degree rooted in the modern idealist tradition in political philosophy, running from Rousseau, say, through Kant, Fichte and Hegel" (Sensat 2007: 1). See also Sensat (2016).
 25. For an interpretation of Rawls's idea of reflective equilibrium in relation to Hegel's idea that "what is rational is actual, and what is actual is rational," see Neuhouser (2000: 328–329, n. 39).
 26. T.M. Scanlon argues against the idea that, working within reflective equilibrium, constructivism can go "all the way down" on the basis that reflective equilibrium depends upon prior and independent judgments about what are to count as *considered* judgments (Scanlon 2012). Rawls considers a similar objection, arguing that since we can "misdescribe our reason," it might seem like it requires external correction, but in reality in a constructivist procedure, "we are using our reason to describe itself" (Rawls 2000: 243).
 27. The circular justificatory structure of political liberalism is discussed by Dreben (2003). Freeman reports that Dreben "compared Rawls's methodological holism with Hegel's" (Freeman 2007: 28).
 28. I have undertaken a comparison of Rawls's substantive constructivism and Habermas's procedural reconstructivism in Gledhill (2011).

References

- Alznauer, M. (2016). Is Hegel a Natural Law Constructivist? *The Owl of Minerva* 48(1/2): 45–56.
- Ameriks, K. (2000). *Kant and the Fate of Autonomy*. Cambridge: Cambridge University Press.
- Audard, C. (2007). *John Rawls*. Stocksfield: Acumen.
- Bagnoli, C. (2002). Moral Constructivism: A Phenomenological Argument. *Topoi* 21(1–2): 125–138.
- Barry, B. (1989). *Theories of Justice*. Berkeley: University of California Press.
- Bercuson, J. (2014). *John Rawls and the History of Political Thought: The Rousseauian and Hegelian Heritage of Justice as Fairness*. New York: Routledge.

- Besch, T.M. (2011). Kantian Constructivism, the Issue of Scope, and Perfectionism: O'Neill on Ethical Standing. *European Journal of Philosophy* 19(1): 1–20.
- Bird-Pollan, S. (2011). Some Normative Implications of Korsgaard's Theory of the Intersubjectivity of Reason. *Metaphilosophy* 42(4): 376–380.
- Brandom, R.B. (2009). *Reason in Philosophy: Animating Ideas*. Cambridge, MA: Belknap Press.
- Buchwalter, A. (2011). Political Pluralism in Hegel and Rawls, in A. Buchwalter (ed.) *Dialectics, Politics, and the Contemporary Value of Hegel's Practical Philosophy*. New York: Routledge, 97–110.
- Budde, K. (2009). Constructivism all the Way Down – Can O'Neill Succeed Where Rawls Failed? *Contemporary Political Theory* 8(2): 199–223.
- Cassirer, E. (1945). *Rousseau-Kant-Goethe*. Princeton: Princeton University Press.
- Chapman, J.W. (1975). Rawls's Theory of Justice. *American Political Science Review* 69(2): 588–593.
- Cohen, J. (1993). Moral Pluralism and Political Consensus, in D. Copp, J. Hampton and J.E. Roemer (eds.) *The Idea of Democracy*. Cambridge: Cambridge University Press, 270–291.
- Dreben, B. (2003). On Rawls and Political Liberalism, in S. Freeman (ed.) *The Cambridge Companion to Rawls*. Cambridge: Cambridge University Press, 316–346.
- Ege, R. and H. Igersheim (2008). Rawls with Hegel: The Concept of “Liberalism of Freedom.” *European Journal of the History of Economic Thought* 15(1): 25–47.
- Fraser, M.L. (2007). John Rawls: Between Two Enlightenments. *Political Theory* 35(6): 756–780.
- Freeman, S. (2007). *Rawls*. London: Routledge.
- Geuss, R. (1996). Morality and Identity, in C.M. Korsgaard, *The Sources of Normativity*, ed. O. O'Neill. Cambridge: Cambridge University Press, 189–199.
- Gledhill, J. (2011). Procedure in Substance and Substance in Procedure: Reframing the Rawls-Habermas Debate, in J.G. Finlayson and F. Freyenhagen (eds.) *Habermas and Rawls: Disputing the Political*. New York: Routledge, 181–199.
- Habermas, J. (1987). *The Philosophical Discourse of Modernity*. trans. F.G. Lawrence. Cambridge: Polity Press.
- Hardimon, M.O. (1994). *Hegel's Social Philosophy: The Project of Reconciliation*. Cambridge: Cambridge University Press.
- Hegel, G.W.F. (1991). *Elements of the Philosophy of Right*, ed. A.W. Wood, trans. H.B. Nisbet. Cambridge: Cambridge University Press.
- Houlgate, S. (2001). Hegel, Rawls and the Rational State, in R.R. Williams (ed.) *Beyond Liberalism and Communitarianism: Studies in Hegel's Philosophy of Right*. Albany, NY: State University of New York Press, 249–273.
- Hoy, J.B. (1981). Hegel's Critique of Rawls. *Clio* 10(4): 407–422.
- Kain, P. (2004). Self-legislation in Kant's Moral Philosophy. *Archiv für Geschichte der Philosophie* 86(3): 257–306.
- Korsgaard, C.M. (1996). *The Sources of Normativity*. Cambridge: Cambridge University Press.
- . (2008). Realism and Constructivism in Twentieth-Century Moral Philosophy, in *The Constitution of Agency*. Oxford: Oxford University Press, 302–326.
- . (2009). *Self-Constitution: Agency, Identity, and Integrity*. Oxford: Oxford University Press.

- . (2011). Natural Goodness, Rightness, and the Intersubjectivity of Reason: Reply to Arroyo, Cummiskey, Moland, and Bird-Pollan. *Metaphilosophy* 42(4): 381–394.
- Kukathas, C. and P. Pettit (1990). *Rawls: A Theory of Justice and its Critics*. Cambridge: Polity Press.
- Laden, A.S. (2001). *Reasonably Radical: Deliberative Liberalism and the Politics of Identity*. Ithaca, NY: Cornell University Press.
- . (2011). The Justice of Justification, in J.G. Finlayson and F. Freyenhagen (eds.) *Habermas and Rawls: Disputing the Political*. New York: Routledge, 135–152.
- Lange, M.M. (2009a). *Defending a Liberalism of Freedom: John Rawls's Use of Hegel*. PhD thesis, Columbia University, New York. URL = < <https://pqdtopen.proquest.com/doc/304864010.html?FMT=ABS>>.
- . (2009b). Exploring the Theme of Reflective Stability: John Rawls' Hegelian Reading of David Hume. *Public Reason* 1(1): 75–90.
- Lumsden, S. (2008). The Rise of the Non-Metaphysical Hegel. *Philosophy Compass* 3(1): 51–65.
- Moland, L. (2011). Agency and Practical Identity: A Hegelian Response to Korsgaard. *Metaphilosophy* 42(4): 368–375.
- Neal, P. (1994). Does He Mean What He Says? (Mis)Understanding Rawls' Practical Turn. *Polity* 27(1): 77–111.
- Neuhouser, F. (2000). *Foundations of Hegel's Social Theory: Actualizing Freedom*. Cambridge, MA: Harvard University Press.
- Nielsen, C.F. and E. Hartz (2018). Why Be Just? The Problem of Motivation in Hegel and Rawls. *Ratio Juris* 31(3): 326–345.
- Nussbaum, M.C. (1999). Conversing with the Tradition: John Rawls and the History of Ethics. *Ethics* 109(2): 424–430.
- O'Neill, O. (1990). *Constructions of Reason: Explorations of Kant's Practical Philosophy*. Cambridge: Cambridge University Press.
- . (1996). *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*. Cambridge: Cambridge University Press.
- . (2003a). Constructivism vs. Contractualism. *Ratio* 16(4): 319–331.
- . (2003b). Constructivism in Rawls and Kant, in S. Freeman (ed.) *The Cambridge Companion to Rawls*. Cambridge: Cambridge University Press, 347–367.
- . (2015). Autonomy: The Emperor's New Clothes, in *Constructing Authorities: Reason, Politics and Interpretation in Kant's Philosophy*. Cambridge: Cambridge University Press, 103–120.
- O'Shea, T. (2015). A Law of One's Own: Self-Legislation and Radical Kantian Constructivism. *European Journal of Philosophy* 23(4): 1153–1173.
- Pinkard, T. (1996). *Hegel's Phenomenology: The Sociality of Reason*. Cambridge: Cambridge University Press.
- . (1999). Virtues, Morality, and *Sittlichkeit*: From Maxims to Practices. *European Journal of Philosophy* 7(2): 217–238.
- . (2002). *German Philosophy 1760–1860: The Legacy of Idealism*. Cambridge: Cambridge University Press.
- Pippin, R.B. (1989). *Hegel's Idealism: The Satisfactions of Self-Consciousness*. Cambridge: Cambridge University Press.
- . (1999). *Modernism as a Philosophical Problem: On the Dissatisfactions of European High Culture*, 2nd edn. Oxford: Blackwell.

- . (2008). *Hegel's Practical Philosophy: Rational Agency as Ethical Life*. Cambridge: Cambridge University Press.
- . (2010). Response to Critics. *Inquiry* 53(5): 506–521.
- Rawls, J. (1971/1999). *A Theory of Justice*, original edn./revised edn. Cambridge, MA: Harvard University Press.
- . (1980). Kantian Constructivism in Moral Theory, reprinted in S. Freeman (ed.) (1999) *John Rawls: Collected Papers*. Cambridge, MA: Harvard University Press, 303–358.
- . (1985). Justice as Fairness: Political not Metaphysical, reprinted in S. Freeman (ed.) (1999) *John Rawls: Collected Papers*. Cambridge, MA: Harvard University Press, 388–414.
- . (1996). *Political Liberalism*, paperback edn. New York: Columbia University Press.
- . (1999). *The Law of Peoples*. Cambridge, MA: Harvard University Press.
- . (2000). *Lectures on the History of Moral Philosophy*, ed. B. Herman. Cambridge, MA: Harvard University Press.
- . (2001). *Justice as Fairness: A Restatement*, ed. E. Kelly. Cambridge, MA: Belknap Press.
- . (2007). *Lectures on the History of Political Philosophy*, ed. S. Freeman. Cambridge, MA: Belknap Press.
- Redding, P. (2018). Georg Wilhelm Friedrich Hegel, in *The Stanford Encyclopedia of Philosophy* (Summer 2018 Edition), ed. E.N. Zalta. URL = <<http://plato.stanford.edu/archives/sum2018/entries/hegel/>>.
- Rorty, R. (1991). The Priority of Democracy to Philosophy, in *Objectivity, Relativism, and Truth*. Cambridge: Cambridge University Press, 175–196.
- Scanlon, T.M. (2012). The Appeal and Limits of Constructivism, in J. Lenman and Y. Shemmer (eds.) *Constructivism in Practical Philosophy*. Oxford: Oxford University Press, 226–242.
- Schaub, J. (2009). *Gerechtigkeit als Versöhnung. John Rawls' politischer Liberalismus*. Frankfurt a.M.: Campus.
- Schneewind, J.B. (1998). *The Invention of Autonomy*. Cambridge: Cambridge University Press.
- Schwarzenbach, S.A. (1991). Rawls, Hegel, and Communitarianism. *Political Theory* 19(4): 539–571.
- Sensat, J. (2007). Rawlsian Justice and Estrangement: Insights from Hegel and Marx. Twenty-First Century Papers, University of Wisconsin-Milwaukee. URL = <<http://digital.library.wisc.edu/1793/28992>>.
- . (2016). *The Logic of Estrangement*. Basingstoke: Palgrave Macmillan.
- Stern, R. (2007). Freedom, Self-Legislation and Morality in Kant and Hegel: Constructivist vs Realist Accounts, in E. Hammer (ed.) *German Idealism: Contemporary Perspectives*. London: Routledge, 245–266.
- . (2012). *Understanding Moral Obligation: Kant, Hegel, Kierkegaard*. Cambridge: Cambridge University Press.
- Street, S. (2010). What is Constructivism in Ethics and Metaethics? *Philosophy Compass* 5(5): 363–384.
- . (2012). Coming to Terms with Contingency: Humean Constructivism about Practical Reason, in J. Lenman and Y. Shemmer (eds.) *Constructivism in Practical Philosophy*. Oxford: Oxford University Press, 40–59.
- Tampio, N. (2007). Rawls and the Kantian Ethos. *Polity* 39(1): 79–102.

- Taylor, C. (1975). *Hegel*. Cambridge: Cambridge University Press.
- Westphal, K.R. (2007). Normative Constructivism: Hegel's Radical Social Philosophy. *SATS – Nordic Journal of Philosophy* 8(2): 7–41.
- . (2010). From “Convention” to “Ethical Life”: Hume's Theory of Justice in Post-Kantian Perspective. *Journal of Moral Philosophy* 7(1): 1–28.
- . (2016). *How Hume and Kant Reconstruct Natural Law: Justifying Strict Objectivity without Debating Moral Realism*. Oxford: Oxford University Press.
- William, B. (1981). Internal and External Reasons, in *Moral Luck*. Cambridge: Cambridge University Press, 101–113.
- . (1993). *Ethics and the Limits of Philosophy*. London: Fontana Press.
- . (1996). History, Morality, and the Test of Reflection, in C.M Korsgaard, *The Sources of Normativity*, ed. O. O'Neill. Cambridge: Cambridge University Press, 210–218.
- Williams, R.R. (ed.) (2001). *Beyond Liberalism and Communitarianism: Studies in Hegel's Philosophy of Right*. Albany, NY: State University of New York Press.
- Zuckert, R. (2004). Review of Karl Ameriks, *Interpreting Kant's Critiques*. *Notre Dame Philosophical Reviews*, 3 May. URL = <<http://ndpr.nd.edu/news/23771-interpreting-kant-s-critiques/>>.

Section 2

Hegelian Political Normativity Between Reason and History



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6 Hegel's Political Philosophy as Constructivism of the Real

Angelica Nuzzo

In the contemporary debate in moral and political philosophy, the idea of “construction” and the label “constructivism,” while displaying a relatively wide range of meanings, is by and large the narrow province of a Kantianism that, to be sure, goes back more to John Rawls’s notion of “practical constructivism” (Rawls 1980) than directly to Kant’s own texts. Moreover, in this debate, the peculiar nature of the practice that constitutes “construction” is generally not addressed. In the present chapter, I lay the foundation for a renewed confrontation between Kant’s and Hegel’s practical philosophies while keeping, in particular, the Hegelian concept of *Sittlichkeit* in view. I do so by sketching out a historical and systematic framework in which I draw to the center the idea and the practice of construction and what can be called the constructivist method in practical philosophy. I will look, however, to a different tradition than the Rawlsian one. I propose to go all the way back to Gianbattista Vico, and to revisit the contemporary discussion in light of a detour that connects both Kant and Hegel with the original constructivist principle of the *verum-factum* (the true as the made) in the development it undergoes in Vico’s writings. Vico proves to be a crucial point of departure in order to understand what construction in practical philosophy properly is for Kant and Hegel. Such a detour will allow us to uncover the changing metaphysical presuppositions underlying the idea of construction, but also to appreciate the range of implications that different constructivist choices have with regard to the status and the aims of the moral and political theory informed by them. Taking as a paradigmatic case the concrete political issue of the right of rebellion, an issue at the forefront in Kant’s and Hegel’s contemporary discussion, the line of argument that goes back to Vico’s constructivist idea will allow us to appreciate the deeper roots of Kant’s and Hegel’s respective answers to that political problem. On this issue we can measure the broad political implications connected to different constructivist choices or to different models of constructivism.

Thus, I am interested, first, in addressing the different conditions that respectively shape the ways in which both Kant and Hegel can be seen as

appropriating and modifying Vico's constructivist principle in their practical philosophies.¹ But I am interested, second, in bringing these differences to bear on our present-day discussion of the function of moral, ethical, and political theory in a world of ongoing challenging global crises. Ultimately, I suggest that at stake herein are two models of thinking about the function and aims of practical philosophy in the social, political, and historical – but also in an increasingly threatened natural – world. While embracing a common constructivist method, these two models differ fundamentally with regard to the question of *what it is that is being constructed*. In short, I shall posit the fundamental question of my chapter in the following way: is practical philosophy engaged in a construction of the *ideal* or in a construction of the *real*? From this question the other question follows: what implications does this choice have for the way in which action in the contemporary world is (and ought to be) conducted? The discussion of Vico's constructivist principle will help us set up the answer to the first question; while addressing the political issue of the right of rebellion will offer an example of how the second question should be addressed.

1. Practical Constructivism and the World of Human Action

What interests me is the issue of the actual validity and possible efficacy of moral and political philosophy with regard to the world of human action. This is the issue that Hegel draws explicitly, and famously, to the center in the preface to the *Philosophy of Right* in defining philosophy in general – and a “philosophy of right” in particular – as “its own time apprehended in thought.” Ultimately, this fundamental issue truly pervades Hegel's entire 1821 work and remains crucial in the articulation of the structures of *Sittlichkeit* where at stake is a theory of *modern* ethical life. Kant, for his part, sees this question addressed, albeit in a skewed way, by the old popular saying “Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis.” The need for a philosophical rectification of this proverb prompts Kant's 1793 essay on “theory” and “praxis” at the center of which is the confrontation of his own “theory” of morals and right with other contemporary philosophical theories as well as with current political issues and actual “praxis.” Now, construction can be seen, somehow, as a bridge between theory and praxis, the ideal and the real. Construction is, most generally, the way in which (i.e., the mode or “method” by which) the theory is made and the action is performed. The question, however, is whether the two orders (theory and praxis, the ideal and the real, the principle or law and its implementation) are necessarily separated or rather eventually converge, and, in this case, how they converge (or ought to converge). Importantly, the tension between the ideal and the real or between the idea and its actualization – a tension

that may result in a necessary dualism or yield a dynamic dialectical relation – informs two fundamentally different ways of conceiving practical freedom. This is the broad constellation that I articulate in the present chapter. Because of its broadness, however, I shall restrict my discussion to a few selected moments and to a few selected texts.

The main task of my argument is to frame Hegel's practical philosophy in terms of a form of constructivism that revolves around the notion of *Wirklichkeit* – the historical actuality that is the effect (*Wirkung*) and the actual embodiment of *Geist's* most proper activity (*Wirken*). Hegel's constructivism is a *constructivism of the real as Wirklichkeit*. It follows from this Hegelian starting point that the connection between the constructive act that constitutes the philosophical theory and the constructed nature of the actuality in which the theory ought to be and actually is practically implemented thereby showing its efficacy and truth, is essential. Now, should this connection be relevant to the philosophical theory itself in its very formulation (and to morals, ethics, politics) or should the theory be conceived (and display its validity and truth) independently of its possible contingent enactments? There is no doubt that this question is crucial for both Kant and Hegel, and that both wholeheartedly (although differently) embrace the former alternative. To put the point in its weaker variant: the ideal cannot disregard the real. While this may not be immediately clear from foundational critical works such as the *Critique of Practical Reason* or the *Metaphysics of Morals*, it becomes evident when one turns to Kant's historical and political writings. As mentioned earlier, Kant explicitly takes up the issue in the 1793 essay, echoing the quoted proverb on the relation of theory and praxis. Here he lays out, against Christian Garve, Thomas Hobbes, and Moses Mendelssohn, how the moral principle of duty and the transcendental principle of right, not the notion of happiness either of individuals or of a people, far from being far-fetched theoretical constructs (or even *Hinrgespinnste*: Kant 1910 [AA] VIII, 312), are actually "sufficiently confirmed in practice (*in der Praxis*)" (AA VIII, 303) –that is, in the world of ordinary human practice, of political institutions, and historical facts. For this thematic reason, as far as Kant's position is concerned, I will restrict my present considerations to this text (when others could be selected just as well). Importantly, however, in this connection, and looking at his own historical actuality, Kant insists against his interlocutors that the opposite is not the case. Factual historical reality (or ordinary praxis) does not in itself disprove (or prove the impossibility of) the theory, namely, the transcendental moral and juridical principle as well as the moral hope in mankind's progress.² In other words, the relation between the ideal and the real is not a symmetrical one. This is an implication of the broader point that I shall sum up in the claim: Kant's constructivism is a *constructivism of the ideal*.

And yet, in the Kantian tradition it is not always so clear that the question just raised is answered in the affirmative, that is, that the ideal

cannot disregard the real, that practical and actual enactment should indeed be central to the theory in its very construction.³ And this makes the question more relevant today than ever. Indeed, if we look at Raymond Geuss's critical appraisal of Rawls's theory of justice, we can see that Geuss's main challenge to this theory is rooted precisely in the fundamental obliviousness and principled disregard that in his view informs the theory's construction *vis à vis* the historical reality in which the theory takes its place and to which it should be supposedly addressed. As the possibility is suggested that such a disconnect between Rawls's theoretical construction (and his practical constructivism more broadly) and the historical actuality may be indeed *necessary* for the ideal normativity of the theory to be preserved, we touch on the point that interests me in this discussion (Geuss 2005: 37f.; Nuzzo 2013). What are, respectively, the conditions and the implications of a constructivism oriented to the ideal and those of a constructivism informed by the real? It may be in fact that on the general question posed earlier, Kant is closer to Hegel than to Rawls.

Following this outline of the problem, the chapter proceeds as follows. In the first step of my argument, I address the issue of philosophical construction in a general sense by focusing on the nature of the *constructive* procedure on the one hand and, on the other, on the kind of "object" that is being construed as well as on the "agent" capable of enacting that procedure. I shall do so by tracing the roots of the constructive idea back to Vico's *verum-factum* principle, and by bringing to light some of the crucial implications later at the center of Kant's and Hegel's respective elaborations of it. The reference to Vico is crucial to understand what the practice of construction is for both Kant and Hegel, in particular when what is at stake is practical philosophy (i.e., the theory of morality, politics, and right). Then, on this basis, I address Kant's construction of the ideal in the *Theory and Practice* essay. In the final step of the argument, I concentrate on Hegel's constructivism of the real, which I see embodied in his theory of "objective spirit" and in the general framework of his *Philosophy of Right*. In order to highlight the different political implications that Kant's and Hegel's theories have precisely because of the centrality of the ideal and the real respectively, I discuss their positions on the right of rebellion, which I take here as a case study.

2. Construction and the Verum-Factum Principle: Theoretical and Practical Construction

The principle asserting the identity or the "convergence" of *verum* and *factum* – the true and the made – which may indeed be interpreted as asserting the constructed nature of truth,⁴ appears for the first time at the beginning of Gianbattista Vico's 1710 *De Antiquissima Italorum Sapientia* where it is articulated in the full range of its metaphysical implications.

The principle is then taken up in the 1730 *Scienza nuova seconda*, although herein it is not so explicitly formulated and is such as to carry quite different implications than in the earlier text (Morrison 1978: 580). Importantly, it is only the later use of the principle that draws to the center its unique practical and historical significance. While one can follow Benedetto Croce in seeing Vico as the one who first introduces the principle into philosophical discussion, it is important to underline that with the *verum-factum* claim Vico does not invent a new problem but rather takes up a position on a much-debated question of his time.⁵ At stake is the relationship between truth or possibility or ideality on the one hand, and actuality, the real world or the realm of matters of fact on the other (Badaloni 1968).

It all begins with a philological and etymological observation. "*Latinis 'verum' et factum 'idem,'*" remarks Vico; the two terms (and the reality they express) "*reciprocantur*" or, in the language of the Scholastics, "*convertuntur*." The cognitive act whereby the true is apprehended – the act of *intelligere* and *cogitare* but also *scire* – is, first, the act whereby a manifold of "elements" is gathered. *Legere* and *intelligere* are cognate acts (just as they are cognate words). For, "just as *legere* is the act of collecting all the elements or writing from which words are composed (*componuntur*), so is *intelligere* the act of collecting all the elements of the thing (*omnia elementa rei*) capable of expressing the most perfect idea" (*De Antiquissima*, I). Indeed, as words are "symbols" of ideas, ideas are symbols of things. But, in addition, to apprehend the true is to constitute or to construct the true as a complex whole out of its constitutive elements. The true is, somehow, an artifact, and it is (the) true to the extent that, and because, it is made (as such an artifact). Thereby we can see formulated the most general and fundamental sense of the constructivist practice: construction is the act whereby a manifold of elements is first constituted as a complex whole (O'Neill 2015: 69).⁶ One should notice, however, that in Vico's rendering, the constructive act (*facere*) with which the true is identified (or seen as converging) is as one with the hermeneutic gathering of the elements from which construction ensues (*cogitare*), and that the constructive act, in order to yield intellection (hence, properly, the true and meaning in general) requires completeness (i.e., requires "all the elements" of the constituted whole to be present).

Precisely in this connection, Vico draws the crucial distinction between the human and the divine mind – and accordingly, between human and divine "construction." The origin of the identity and convergence of *verum-factum* is properly in God. In God is the "*primum verum*" because, Vico argues, God is "*primum Factor*." Because he has made it (or because he has the power to make it), God immediately and by the same act *knows* the true fully and completely in all its constitutive elements (and vice versa). *Verum* is *factum* implies the identity of *intelligere*

and *facere*, of the cognitive and the practical, properly poietic act. The reality of *verum* – or the kind of entity that the true is – is the reality of a *factum*, that is, of that which is made – of that which is produced and constructed as the complex reality it is.⁷ Different is the predicament of the human mind, although its cognition follows the same constructive paradigm instituted by the divine mind as *primum Factor*. Due to its limitations, the human mind does not directly *make* or produce all that it purports to know in its truth. For while all things are “within” the divine mind, they are “external” to the human mind (not directly made by it). What is *made* by God, hence intrinsic to his mind, is externally *given* to the human mind.⁸ It follows that since *verum* is *factum*, the human mind cannot know things the way God knows them, namely as true perfectly and completely: it cannot know what it does not itself make. Since the human mind lacks the power of gathering the *complete* set of elements constitutive of things, to it pertains the *cogitatio* whereby elements are collected, not the full *intelligentia* of the completely true proper instead to God. Vico illustrates the difference with a similitude: “*verum divinum*,” he maintains, is a solid, three-dimensional image of things, like a statue; “*verum humanum*,” by contrast, is a two-dimensional image, like a painting or, introducing a term that reappears importantly in Kant, a “*monogramma*.” It is a difference not so much in the act of making but rather in what is made, a difference in the type of artifact yielded by two types of artistic *poiesis*. Despite this, however, according to the stated principle, the true, to the extent that it is (thought and apprehended as) true, is *made* (indeed, like a statue or a painting). Science, Vico contends, “is the knowledge of the way or mode in which the thing is made (*cognitio generis, seu modi, quo res fiat*)” – properly, it is the cognition of the way the thing issues forth (*fiat*), of the genetic constitution process whereby it becomes what it is: “*verum esse ipsum factum*.” Accordingly, in the case of human knowledge, this principle is the basis of a hierarchy of the sciences that sees mathematics at the top as the science that most perfectly fulfills the *verum-factum* convergence, and ethics at the bottom as a discipline that mostly depends on externally given elements (Miner 1998: 66f.).

To be sure, Vico’s separation between divine and human knowing and making may appear subtle, and in fact more a way of bringing them closer together (the former serving as the paradigm for the latter) than of pulling them apart. As in the following formulation:

[J]ust as *verum divinum* is that which God *disposes and generates* in the very moment in which he knows it (*est quod Deus, dum cognoscit, disponit ac gignit*), so is *verum humanum* that which man *composes and makes* in the very moment in which he apprehends it (*quod homo, dum novit, componit item ac facit*).

(*De Antiquissima*, I)

At stake, it appears, is the difference between *disponere*, *componere*, *gignere* (to give birth) and *facere* – actions, however, that are similar enough to warrant the constitutive analogy around which the comparison is structured (*quemadmodum* [. . .] *ita*). *Disponere* is a fundamentally practical (in the sense of *praxis*), almost legislative and normative act, while *componere* is quite in line with the procedure that accompanies the hermeneutic gathering of the constitutive (although, for the human mind, always external and extrinsic) elements of things (*legere*). *Gignere* is the creative act of giving birth and bringing forth, while *facere* is determinately the activity of technique and *poiesis*. In both cases, however, the cognitive and the practical act take place at the same time (*dum cognoscit, disponit; dum novit, componit*).

In order to briefly address the systematic (and polemical) use to which Vico puts the constructivist principle outlined at the beginning of the *De antiquissima*, and with an eye to the later developments on the issue of practical construction in Kant and Hegel, let me draw some general implications from this early formulation. Construction is a practical act that displays both the meaning of *praxis* – as in God's legislative *disponere* – and the meaning of *poiesis* as artistic and technical production – as in man's *componere* and in the divine and human art, analogically close to sculpture and painting, respectively. Construction produces a certain reality – and the true as reality – the ontological status of which has to be precisely determined and is different for the divine and the human mind (as a three-dimensional sculpture differs from a two-dimensional picture and *gignere* differs from *facere*). Construction designates the very act of knowing and the condition of true knowing: knowing and making are one, just as *verum esse ipsum factum*. Only that which is made can be known (as knowledge concerns the thing's genesis and its maker). In this regard, however, there is a crucial discrepancy between divine construction and human construction. While for the divine mind the gathering of the elements of things, yielding the complete set that constitutes them, is at once the act that produces their reality, for the human mind the act of collecting (*legere*) and the act of comprehending (*intelligere*) are separate. To put this point in a later terminology, divine construction is close to intuitive knowledge (or to Kant's intuitive understanding) and to the immediate identity of theory and praxis; human construction is, constitutively, discursive knowledge. Both do imply, however, the practical-constructive procedure that yields the thing's reality.

Importantly, in Vico's view the paradigmatic form of human construction and the closest to God's making/knowing is mathematics. Mathematical construction is a "fiction" of the imagination. It is a tool or an implement whereby the human mind interrogates a reality, namely, nature, which it does not directly produce and hence cannot directly (or intuitively) access. Through construction, however, the imagination generates an alternative fictional reality, which is the mathematical

construct itself – a fiction that stands to the thing just as ideas stand to it. The reality of the mathematical fiction, then, is the reality of an abstraction or an ‘ideal’ that is ontologically connected with the real and allows for the real to be indirectly known. Clearly, the epistemological constructivism of Kant’s first *Critique* comes close to Vico in this regard.⁹ Indeed, Kant’s transcendental idealism, implying the transcendental ideality and empirical reality of space and time can be seen as the turning point solution of the modern problem of how the constructed, fictional or ideal order and the real connect or correspond yielding true cognition. Curiously, for Vico, while construction is a practical act of the mind, it displays a fundamental epistemological validity before showing its implications within the practical domain of ethics, politics, and history. In fact, in the *De antiquissima*, ethics, politics, and history lie at the opposite end of the spectrum of human sciences than mathematics. At this stage of Vico’s philosophy, the practical world, or the world of human practice, seems hardly amenable to construction, hence less open to true (and necessary) knowledge. This is the crucial point that Vico’s later *Scienza Nuova* (or, as Croce [1965: 30] puts it, Vico’s “*seconda gnoseologia*”) will overturn.

These characteristics of Vico’s early constructivist principle explain its systematic and polemical function in the *De antiquissima*. Its discursive nature along with the fundamental difference between divine and human construction, is used against Descartes’ intuitive self-cognition expressed in the identity of thinking and being in self-consciousness, as well as against the notion that the subject’s *cogito* is the locus of truth, a position that in Vico’s view leads inexorably to subjectivism and skepticism (Croce 1965: 11; Morrison 1978: 586). In this text, the *verum-factum* principle is used to deny the possibility of self-knowledge. In fact, for Vico, self-consciousness is not sufficient for self-knowledge (as *scientia*). Self-knowledge requires self-making or self-production. Indeed, science is “the knowledge of the way or mode in which the thing” – in this case, the ‘I’ or subject – “is made” (*De Antiquissima*, I). Now, since the (human) subject does not make/produce itself, it cannot know itself. Hence, against Descartes, the *ego cogito* implies neither being (as *factum*) nor knowing (in the sense of *verum* and *scientia*) but only *coscienza*. This is the fundamental limit of a constructivism that remains limited to the subject’s theoretical activity (the subject as thinking being and mere *coscienza*). It is precisely this connection that radically changes in the *Scienza Nuova seconda*. Herein the principle *verum-factum* is used, quite differently than in the *De Antiquissima*, to ground human self-knowledge as the privileged locus of truth, but also to ground the practical validity and normativity of the practical principles of action. For, in the later text, Vico’s view is that the mind “makes itself” in the practical domain of ethics and, most importantly, in the constructed world of social and political institutions, in culture, and in history. In all these spheres, human

knowledge is just like divine knowledge: the human mind is “Factor” of the social and historical world just as God is “Factor” of truth and reality in its unqualified extension. In their closeness to divine knowing and making, the practical and historical sciences replace, at this point, mathematics. Mathematical construction yields to the practical constructivism that brings the cultural, historical, and social world into being. What the practical sciences construct, then, is not the abstract ideal of mathematical fictions but the real of the social and historical world. The human mind is not a theoretically thinking being (*res cogitans*) but is the practical locus of self-actualization. Construction as the mind’s chief *poetic* and *poietic* activity underlies all making as human self-making. Since construction is now fully construction of the real as practical reality – as social, political, and historical human reality – the constructivist principle is not only an epistemological principle for knowledge but becomes a practically normative principle for action.

There is a sense in which the development of the constructivist principle from Vico’s *De Antiquissima* to the *Scienza Nuova seconda* can be seen as matching the shift from the epistemological constructivism of Kant’s first *Critique* to Hegel’s account of spirit’s self-making activity at the level of “objective spirit” – in ethical, social, and political institutions and in world history. Things, however, are a bit more complicated, since the practical constructivism of Hegel’s *Geist* implies a crucial confrontation with Kant’s own use of the constructivist idea in his practical philosophy. It is here that the gap between the ideal and the real manifests itself.

3. Kant’s Practical Constructivism as Constructivism of the Ideal

In the practical sphere, at the intersection of the purely moral-practical and the “applied” social-political practical – or, with Hegel, at the juncture of *Moralität* and *Sittlichkeit* – it may all come down to the meaning of *Faktum*. Vico’s *factum*, now systematically translated into the German philosophical *milieu*, retains its different meanings. *Faktum* is the past participle of *facere* but is also connected to *agere* – *factum* is *actum*. It is, alternatively, what is made (*factum*) and what is the product of action (*actum*); it is, as already in Vico, the correlate of *poiesis* and of *praxis*. As the crystallization or the embodiment of action, *Faktum* is indeed a reality. The issue, however, regards the type of reality that belongs to it. Is it the reality proper to a pure ideal or the reality proper to empirical, historical actuality?

In the *Critique of Practical Reason*, in the well-known notion of the *Faktum der Vernunft*, we find Kant’s peculiar account of reason’s *factum-actum* in the purely moral sphere of its activity.¹⁰ In stressing the connection between the critique of speculative reason and the thematization of practical reason, Kant maintains that the latter offers “confirmation

(*Bestätigung*)” of the results of the former insofar as “practical reason” now entirely “by itself” “produces reality (*Realität verschafft*) for a supersensible object of the category of causality, namely, freedom.” Such “reality,” to be sure, is the reality of a “practical concept” which is also limited to its “practical use” – it is, in other words, a genuine product or manifestation of reason’s practical construction (in contrast to reason’s pure speculative knowledge). This, then, is properly the “confirmation” that practical reason provides of the results of speculative reason’s critique: “that which there is merely *thought* is now confirmed by a *Faktum*” (KpV AA V, 6). *Faktum* is the “reality produced” or first instituted or made (*facere*) by practical reason as a practical reality for practical (and more precisely, for purely moral) employment. It is the reality of freedom as a “supersensible object,” hence, fundamentally, an *ideal* reality or the reality of an idea. Crucially, it *must* be an ideal reality in order to be the reality of a purely practical concept (properly, an idea), that is, of a concept that as the fundamental moral concept is unconditionally normative with regard to human action. Kant adds at this point that such an argument confirms the first *Critique*’s claim according to which the self-knowledge proper to the thinking subject is only knowledge of oneself as appearance (ibid.). Indeed, this is also an interesting confirmation – albeit in an utterly different historical and systematic context – of Vico’s critique of Descartes’s *cogito* on the basis of the *verum-factum* principle: in purely cognitive terms, the thinking self does not “make” itself (is no *factum/Faktum* but rather a mere phenomenal *datum*) from which it follows that self-knowledge is only *coscienza* or only knowledge of oneself as appearance but no noumenal self-intuition.

In the remark that accompanies the formulation of the “Principle of Pure Practical Reason” (*Critique of Practical Reason* §7) Kant introduces the idea of the consciousness of the moral law as “*Faktum der Vernunft*.” He claims, “We may call the consciousness of this fundamental law a fact of reason, because we cannot reason it out (*herausvernünfteln*) from antecedent data of reason (*Datis der Vernunft*), e.g., the consciousness of freedom (for this is not antecedently given), but it forces itself on us as a synthetic a priori proposition, which is not based on any intuition, either pure or empirical” (AA V, 31). Herein *Faktum* is, directly, the act or the action of reason – *Faktum* is *actum*; it is the result of reason’s own pure form of praxis, identical with reason’s own *facere*, immediately identical with the very consciousness of freedom. As such, *Faktum* is contrasted and opposed to *Datum* and to what is inferred from “*Datis*.” Indeed, in the case of the consciousness of the moral law in its identity with the consciousness of freedom, “*verum esse ipsum factum*.” The synthetic character of the a priori proposition expressing reason’s *factum* is a sign of its constructed character. Reason’s action, expressed and embodied in its *Faktum*, is the chief instance of reason’s practical constructivism. Now, what is the status of the reality proper to this unique construction, of

this practical fact? This is the question that Kant is swift to address as he opposes the “*Faktum* of reason” to an “empirical *Faktum*.” As *Faktum*, the moral law announces itself as normative – “as originally *gesetzgebend*” (ibid.). Close here to Vico’s divine *disponere*, reason’s unique practical construction does not belong to the realm of empirical reality but to the intelligible, ideal order of its moral legislation. Because of its nonempirical reality, reason’s *Faktum* remains cognitively “absolutely inexplicable;” that is, it is not an object of knowledge as it escapes all possible intuition. It *must* be such a purely ideal *factum* if it is to possess absolute normative practical validity. Herein Kant’s practical (and specifically, purely moral) constructivism seems to reverse the tenet of his theoretical constructivism: whatever has the status of a *Faktum der Vernunft* (the moral law and the consciousness of freedom) *cannot be known* – which means: it is indeed *verum* but not within the realm of possible experience or within the *Sinnenwelt*; not as knowledge of appearances or of an empirical *factum*, not as in any way connected to “*Datis der Sinnenwelt*” (AA V, 43). It is instead the *verum-factum* of an ideal reality constituted precisely in its normative validity in opposition to the empirical reality of the sensible world. While this practical *Faktum* gives “no insight,” it is a “sign (*Anzeige*)” of a pure intelligible world – a sign that “positively determines” this world as it discloses to us the moral law (ibid.). To be sure, the moral world is itself ultimately a *Faktum*: it is something made or constructed in its purely intelligible or ideal reality by human reason in its practical activity.

In the first section of the 1793 *Theory and Practice* essay, Kant addresses the “relation of theory to praxis in morals generally” (AA VIII, 278). His target is Garve. Kant’s efforts are aimed at showing that despite – but truly, and importantly, *precisely on the ground of* – its purely ideal reality, the concept of duty is not some kind of far-fetched abstract construct of reason but is, instead, a simple and thoroughly accessible notion for our human understanding, a notion that because of its accessibility is implementable and actually implemented in ordinary human praxis. Crucially, Kant argues that it is *precisely because* of its “complete purity” and indeed ideality that the concept of duty is “incomparably simpler . . . and, for practical use, more readily grasped and more natural to everyone than any motive derived from happiness.” For, when maintained in its utter purity, it is also “*far more powerful*, forceful, and promising of results” than all motives derived from happiness and self-interest (AA VIII, 286). The constructed ideal reality of the concept of duty is as one with its unconditioned normative validity. This is the meaning of reason’s practical *Faktum*. The notion of happiness, by contrast, has no ideality at all. It is a confused empirical concept that referring to an empirical reality is no *factum* at all (it is neither the result of *facere* nor of *agree*) but is, at the most, to put the point in the language of the second *Critique*, an abstraction “reasoned out” from conflicting empirical *data* (AA V, 31). There is a sense in which the evidence of the concept of duty for common human

understanding, in contrast with the obscurity of the motive of happiness, can be brought back, echoing Vico, to its constructed character: *verum ipsum factum* – reason, but also common understanding, has insight only into that which it itself produces.

While confirming the main thesis of the second *Critique*, in this essay Kant's argument against Garve covers a constellation that from *Moralität* moves on to the praxis proper to *Sittlichkeit* (i.e., to the action carried on by individuals and peoples within the world of right and social and political institutions). Addressing the "relation of theory to practice in state right (*Staatsrecht*)," the polemical target is now Hobbes (AA VIII, 289). At stake in this discussion is the idea of an "original contract" on which alone a civil constitution can be based. At stake, more precisely, is the *status* of such a concept and the way this concept, precisely on the grounds of its theoretical status, informs actual political praxis. On Kant's account, the notion of the original contract is an ideal construction of reason, not an empirical and historical fact. The issue, however, can be settled only by fundamentally separating the idea of the "unconditional and first duty in any external relation of people in general," namely the idea of an end that each people "*ought to have*" as a duty, from the aim of happiness (i.e., the end that "naturally" all people have). Kant's point against Hobbes, parallel in this respect to his point against Garve, is that "the concept of an external right as such proceeds entirely from the concept of *freedom* in the external relation of people to one another" and has nothing to do with happiness and with the means to attaining it (*ibid.*). Significantly, for Kant, the consequences of confusing the two levels – the rationally constructed normative ideal and the given empirical and historical real – are dire precisely with regard to actual political practice.¹¹

The notion of an "original contract on which alone a civil and hence thoroughly rightful constitution among human beings can be based and a commonwealth (*ein gemeines Wesen*) established," which is a "contract" whereby "every particular and private will within a people" is united into "a common and public will," is not, Kant contends, a presupposition that the theory assumes (or must assume) as a "*Faktum*" found in history. For, he parenthetically contends that "as a fact it is indeed not possible." That concept does not – and cannot – refer to an empirical fact (truly not a rational *factum* but a *datum*) – "as if it would first have to be proved from history that a people, into whose rights and obligations we have entered as descendants, once actually carried out such an act (*Actus*)" (AA VIII, 297). The connection *Faktum-Actus*, which Kant reaffirms, should not be searched for in history – in empirical facts and in empirical actions. Herein Kant's constructivism of the ideal is significantly far from Vico's *Scienza Nuova seconda* (and, as we shall see, from Hegel's constructivism of the real). Rather, the concept of the original contract is a rational and ideal construction – it is not a historical *datum*

but a genuine practical (and specifically, ethical-*sittlich*) *factum* of reason. It is, Kant maintains,

only an idea of reason, which, however, has its undoubted practical reality, namely to bind every legislator to give his laws in such a way that they *could* have arisen from the united will of a whole people, and to regard each subject, insofar as he wants to be a citizen, as if he has joined in voting for such a will.

(ibid.)

It is the normativity of the idea that constitutes its “undoubted” reality – a reality that is genuinely “practical,” that is, constitutively nonempirical and non-historical (historical reality follows, it does not precede it).¹² Normativity – or the capacity to ethically motivate and obligate – is the idea’s practical reality insofar as the idea is (or rather ought to be) binding within the state, both in the legislator’s law-giving praxis and in each and every citizen’s conduct according to the law. It is the *ideal* dimension of the original contract – or the *pactum sociale* insofar as it is “*only an idea* of reason” – that has the power of binding the legislator’s and the citizen’s action. From this it follows that empirical and historical facts, by contrast, have no possible normative practical validity or reality. Just as the ideal construct or *Faktum* of reason has no empirical factuality (“as a fact it is indeed not possible”), so the empirical given of history has no normativity hence no proper ethical-practical actuality. On this ground, reason’s ideal construct (and this only) functions as the “*Proberstein*” – as the criterion and touchstone – for every public law’s conformity with right and justice (ibid.). This is indeed the crucial point of Kant’s practical constructivism of the ideal. While the ideal is *confirmed* within and by ordinary political praxis, it functions as the only possible *measure* of the action’s validity according to the principle of right; that is, it functions as the criterion according to which the political and historical world can and should be evaluated. What is relevant herein is, first, the fact that the ideal functions as the criterion of the (historically) real and not vice versa; and second, the fact that *only* the ideal can fulfill this function: the abstract notion of happiness (of the head of state in oligarchies and more or less tyrannical regimes, or of the people in populist polities) can by no means function as the touchstone of the justice of political action.¹³

The fundamental claim that the original contract is a constructed ideal of reason and not a historical fact or an actual event is the basis of Kant’s rejection of the right of rebellion. Referring explicitly to Gottfried Achenwall as representative of many other “respectable” and “well-intentioned” authors holding a similar opinion (AA VIII, 301), Kant argues that the fallacy that undermines their “realist” theories consists in “substituting the principle of happiness for the principle of right,” that

is, replacing the rationally constructed ideal with an abstract empirical concept. This fallacy is incurred, Kant contends, also “because *no actual contract*, submitted by the commonwealth, accepted by its head, and sanctioned by both, can be found” (AA VIII, 301f., my emphasis). Indeed, when the ideal is not recognized in its specific practical reality (i.e., in its normativity), the empirical principle of happiness comes to replace the missing factual contract as ground of political action. While the idea of the original contract has its “ground (*Grund*) in reason,” in which and through which it receives its reality (i.e., its normativity), those authors assume that “some event corresponding to the idea of that original contract must *actually* have occurred (*wirklich geschehen sein müsse*).” Since no actual event can, however, lend normativity to a concept, a pseudo-normativity is lent to the principle of happiness. This fallacy is dangerous, in Kant’s view, for the practical and specifically political implications it carries. For these authors conclude that in the absence of a factual historical contract, the political contract is invalid, and “the people retain the authority to depart at its discretion from the contract whenever in its own judgment there is a violation of it.” In other words, on Kant’s view, these authors do not see that in its ideality, practical reason’s *factum* is utterly independent of the empirically real for its normative validity; they do not grasp that while the ideal is indeed “confirmed” (AA VIII, 303) by actual political praxis and functions as the criterion of its rightfulness, the principle of right is utterly independent of actual praxis and cannot possibly be invalidated by its contingent manifestations. Since happiness is no (normative) basis for the principle of right – the ground of which is in reason’s ideality, not in history’s actuality – Kant rejects the people’s right of rebellion. As in morals, so also in the case of state right; what is at stake is the error of replacing an ideally constructed principle (respectively, duty and right) with the empirical principle of happiness. Now, only on the basis of the former can a civil constitution be upheld against despotism and rebellion. Following the latter, the despot appeals to the principle of happiness, promising to make the people happy, and thereby justifying all sorts of political action; while the people, for their part, appeal to their own happiness in justification of their becoming rebels. In both cases the normative foundation of the just political order of the commonwealth is undermined. The criterion of the justice of political action can lie only in reason’s idea. “Had one first asked what is right (*was Rechtens ist*)” – the Socratic and platonic question concerning the necessity of the idea, not a contingent matter of fact – “the idea of the social contract would retain its unassailable authority, though not as *Faktum*.” And here Kant refers directly to the revolutionary Danton who in praxis, just as the “*Empiriker*” in theory, declares that in the absence of a factual contract, “all existing rights and all property under actually existing constitutions are null and void” (AA VIII, 302). For Kant, by contrast, it belongs to the recognition of the ideality of the principle

of right that it can by no means be invalidated by any actual reality as it serves rather as the “*Beurteilungsprinzip*” for “any rightful public constitution whatever” (ibid.).

Thus, it is clear that in Kant's practical philosophy – at the level of pure morality as well as in his theory of right and politics – the *ideal* dimension of reason's constructivism, while essential to the normativity of practical concepts in contrast to the empirical reality of positive facts, by no means represents a flight from the engagement with actual political praxis but is rather a principled orientation towards it.

4. Hegel's Constructivism of Objective Spirit as Constructivism of the Real: *Moralität* and *Sittlichkeit*

The constructivist principle is at the heart of Hegel's idea of spirit (*Geist*), and this in exactly the “historicist” sense of Vico's *Scienza nuova seconda*. The constructivist principle applies to all human works: to the social and political institutions of spirit's objective world as well as to the productions of absolute spirit. Spirit, just like the “God” of *De Antiquissima*, is the series of its actions and “can be known only in its works (*Werken*)” (Hegel 1986 [TW] 6, 404). Indeed, in the case of spirit, *verum ipsum factum*. Hegelian spirit is fundamentally *Factor*, just as God and man are for Vico. Spirit's objective reality or “objectivity” is its self-produced actuality (ibid.), just as political and social institutions and the works of art and culture are products of the human (individual and collective) mind or indeed spirit for Vico. Actuality (*Wirklichkeit*) is precisely the result of spirit's most proper acting (*Wirken*), of that action by which spirit is entirely determined for what it essentially is. This self-productive action is freedom as the process of spirit's self-actualization – *Verwirklichung* – a process to which the social-political and historical dimensions belong in the most proper, original sense. Ultimately, this is the meaning of the well-known transformation of “substance” into “subject” first announced in the *Phenomenology of Spirit* (TW 3, 22). Unlike substance, “the subject is the series of its actions (*Was das Subjekt ist, ist die Reihe seiner Handlungen*)” (*Philosophy of Right* [R] §124) and nothing beyond its actions. This is true, for Hegel, of individual subjectivity as well as of collective and institutional subjectivity; it is the basis of moral and juridical accountability as well as of political and historical agency. Spirit designates the complex of all these structures. Moreover, in its self-constituting and constituted actuality, spirit not only demonstrates itself as *free in its action*, it also *knows itself as free*. Self-making is self-knowing (quite in the sense of Vico's *Scienza Nuova*). This general constellation is the ground of the constructivism proper to Hegelian spirit, which can be designated a constructivism of spiritual actuality.

In the *Logic*, which lays the systematic foundation of his philosophy of spirit, in discussing the general use of the term “idea,” Hegel rejects the common implication that the “idea” is “*only an idea*” in the diminished

sense that it lacks something and is therefore somewhat ineffective and “ineffectual” – that it is still something “*Unwirkliches*” (TW 6, 463). What the idea seems to lack when given such meanings is the dimension of “objectivity,” which Hegel instead brings to the center in defining the idea as the realized “totality of the concept and objectivity,” as the “objective or real concept” (TW 6, 462f.). The idea is that which is *wirklich* in the highest sense of truth. In other words, while common conceptions of the “idea” take it as that which in its “ideality” lacks (and even must lack) all reality and objectivity, Hegel stresses the fact that the idea is that which is real or objective *in the highest degree*. Hegel responds to Kant’s position that places reason’s ideas in a “transcendent” ideal dimension beyond the reality of “appearances” in the attempt to secure for them an allegedly higher and loftier (practical) validity, yet ends up denying them all speculative truth (i.e., “objective validity”). He claims that ideas, being the objective *Verwirklichung* of the concept,¹⁴ not only do not lack actuality but display the truest form of actuality, which is the necessity of truth. The idea is the concept that has passed the test of truth by going through the process of its actualization and by proving itself fully real and necessarily productive in the movement of *Verwirklichung*. This means that “everything that is actual (*alles Wirkliche*) is actual only to the extent that it *is*” in the sense of “having the idea in itself and being an expression of the idea” (TW 6, 464). Ultimately, this is precisely the measure of the efficacy of all spiritual activity: *Wirklichkeit* is the self-productive and proven actuality of truth. *Verum est factum* as the two indeed *reciprocantur*. Actuality is the crystallization of the action whereby truth proves itself for what it is, namely, the acting and active power of the idea, the power of the “rational.” The idea is “*das Vernünftige*” (and not merely *Vernunftbegriff*: TW 6, 463). Herein, at the basis of Hegel’s position, is clearly the gesture that erases the distinction between theory and praxis (the cognitive and the practical), the ideal and the real, so crucial for Kant but already overcome in the divine *facere* of Vico’s *De Antiquissima*, which now becomes, most properly, the character of *Geist*.

In the passage of *Encyclopedia* §6 that establishes *Wirklichkeit* as the specific “topic” of philosophy, Hegel directly refers to the preface of the *Philosophy of Right* where at stake is the specific topic of a *Rechtsphilosophie*. Hegel identifies *Wirklichkeit* with the “originally produced” and constantly self-producing “world” of the “living spirit.” *Wirklichkeit* is the dynamic action of *Hervorbringen*, which is the *sich Hervorbringen* proper to spirit. It is both the ongoing movement and the result of the self-producing constructive action defining spirit in its living reality (close indeed to the divine *gignere* of Vico’s *De Antiquissima*). As a result, *Wirklichkeit* is the objectivity of the “world.” Such a world, however, far from being a transcendent (cosmological) object or an antinomic idea of pure speculative reason set beyond the limits of experience (as it is for Kant) is constitutively permeated by consciousness – it is consciousness’

own, self-produced internal and external reality – and is accordingly always an *experienced* world. The ideal and the real meet in the construction that is spirit's "world." Philosophical or conceptual knowledge reveals the necessary convergence and the agreement of "actuality and experience." "It must be regarded as the highest and final goal of science to bring about through the cognition of this agreement the reconciliation (*Versöhnung*) of reason that is self-conscious (*selbstbewusste Vernunft*) with reason that *exists* (*seiende Vernunft*), namely, with actuality" (Enz. §6). If truth is the chief topic of philosophy, truth is a relation of correspondence and agreement between concept and reality¹⁵ that has reason as its active protagonist. Truth is this relation because it is a construction – it is spirit's most proper *Faktum*. Science, just as truth, is a rational activity in which the theoretical and practical dimensions converge: to recognize and to know that actuality and experience constitute a unity, to recognize and to know that reason is one and the same reason in its self-conscious and in its existent manifestations is to produce or "to bring about" the "reconciliation" of the two sides. *Wirklichkeit* is the manifest sediment or the objectivization of reason's own activity, the solid yet always dynamic reality assumed by an "activity" (*Wirken*) that has shown and continues to show its enduring *efficacy* (*Wirksamkeit*) in the world precisely by constituting and reconstituting this world as the world of the living spirit, as the experienced inner and outer world of consciousness. The historicity of philosophical thinking goes hand in hand with the historicity of the world constituted by spirit's most proper praxis.

Hegel's *Philosophy of Right* opens by disclosing the broader systematic framework in which spirit constructs its objective – social, political, historical – world. Taking on directly the conception of the "idea" outlined in the *Logic* (as the unity of the concept and its actualization) and specifying it with regard to the idea and concept of *right*, he claims: "*The philosophical science of right* has the *idea of right* as its object, that is, the concept of right and its actualization (*Verwirklichung*)" (R§1). This means that the "idea" of right, which is the specific object of the philosophical *Rechtswissenschaft*, is itself the self-actualization of spirit in its free action; that is, the idea is spirit's own *real* self-construction. Now the point herein is that spirit's *actuality* in the sphere of right, because of its constructed character, is *normative* for human social and political practices. It is actuality, not a practical ideality (as reason's *Faktum*), that is the source of normativity. The principles and institutions of modern ethical life are justified, hence are normative for an individual's actions, insofar as they are the actual embodiment of freedom, hence insofar as they promote the realization of the individual's own freedom. When, by contrast, they are no longer the actual expression of such freedom, their existence is reduced to the ineffectual, dead "positive" which characterizes practices that have lost their normative grip on the individual's life.

Hegel's introduction of the "state" as the culmination of the sphere of *Sittlichkeit* fulfills the logical model announced in R§1, and brings to the fore the difference between Kant's constructivism of the ideal and Hegel's constructivism of the real. We have seen that in Kant's *Theory and Practice* essay the normative ground of the political unity of the state and its juridical order is the "idea" of the "original contract" – an idea that as "idea," far from having to be historically actual in order to be normative, needs rather to be "only an idea" in order to preserve its normativity *vis à vis* the historical world. Hegel presents the "state" as "the actuality of the ethical idea" – "*Der Staat ist die Wirklichkeit der sittlichen Idee*" (R§257). Herein, while the terms of the problem (i.e., idea and actuality) seem to be exactly the same as in Kant, their relation is reversed. The state is the normative political order within which ethical freedom acquires its actuality. The normativity of the political order for the citizen's life is due precisely to its capacity to fulfill the condition of freedom's *actualization*. However, while the state's ethical actuality is fully historical and empirical actuality, it does not lack an immanent ideal dimension: the state is "the actuality of the ethical *idea*." There is no principled separation between the ideal and the real. For it is rather in the actuality that the political state itself *is*, that the ethical idea receives its full validity as freedom's realization. The state, Hegel posits by elaborating on the previous claim, is "the ethical spirit as substantial will, *manifest* and clear to itself, which thinks and knows itself and fulfills (*vollführt*) what it knows insofar as it knows it" (*ibid.*). In the state as ethical spirit's most proper and highest (self-) construction (i.e., as the way in which ethical spirit produces or makes itself in its actuality), spirit thinks and knows itself – quite in Vico's sense: *verum ipsum factum*. Spirit *knows* itself to the extent that it *makes and has made itself* in the ethical actuality of the state. This knowing, in turn, is the basis of spirit's further making – the basis of spirit's actual fulfillment (*Vollführung*) of its self-knowing in the objective world and in world history.

Notice the different syntactical form displayed respectively by Kant's presentation of the "idea" of the original contract as the basis of the political unity of the state and Hegel's presentation of the state as actuality of the ethical idea. Hegel gives an account of the actual, of what the state *actually is* in its *conceptual* dimension – an account of the actuality of the *idea* of the state or of the state as the "ethical idea." In the actuality of the state, ethical spirit thinks and knows itself and acts according to that knowledge: there is no "ought to" (*Sollen*) here. What characterizes the norm grounded in the reality of the state is the efficacy, the *Wirken* implied in that *Wirklichkeit*. That norms are *actually* operative or have efficacy in human life – not that they ought to be operative – this constitutes their ethical validity. Kant's presentation, by contrast, underscores the different order of the "as if" ("*als ob*") proper to the ideal: the "idea" of the original contract "obligates every legislator to formulate his laws

in such a way that they *could have sprung* from the unified will of the entire people, and to regard every subject . . . *as if he had joined* in voting for such a will" (AA VIII, 297, my emphasis). The idea's reality is the "indubitable" *practical* reality of reason's construction (ibid.), the reality of a nonempirical and non-historical *Faktum*, the practical reality of what ought to be, not the actuality of what is. In Hegel's conception, by contrast, there is no gap between the ideality of the principle of right and the individual's ethical praxis (be it the legislator or the citizen) – the gap that Kant expresses in the form of the "*als ob*" and that constitutes the ethical difference between the subject aiming at his own happiness and the "citizen" who follows an ethical duty. The ethical spirit, Hegel contends, "has its immediate existence (*Existenz*) in custom (*an der Sitte*) and its mediate existence in the *self-consciousness* of the individual, in the individual's knowledge and activity, just as self-consciousness, by virtue of its *Gesinnung*, has its *substantial freedom* in the state as its essence, its end, and the product of its activity" (RS257). Hegel underscores the form that ethical spirit's "existence" (hence, ultimately, the ethical *idea*) takes within the state: collective customs and individual self-consciousness shape spirit's knowledge and action in this sphere. The state, however, remains the enduring "essence," the end and the product of that knowledge and action. Once again, the state is something made that as such permeates every making, acting, and knowing. The state is the locus in which self-consciousness (a fundamental trait of spirit) gains its "substantial freedom" – a freedom that is necessarily actual, actualized, and self-actualizing. *Wirklichkeit* as the actuality of freedom (not as an ideal construction) is the measure of the state's ultimate legitimacy.

Importantly, this overall framework is also the basis of Hegel's position on the right of rebellion – a position that is fundamentally different than Kant's and is different precisely on the ground of the distance that separates the constructivism of the *real* from that of the *ideal*. We have seen how Kant's argument against the right of rebellion in the *Theory and Practice* essay goes back precisely to the need to preserve the ideality of the principle of right (i.e., the moral foundation of the civil constitution) against the "*Empiriker*" who looking at empirical facts replaces the ideality of the principle of right with the abstract empirical principle of happiness. While Hegel does not seem to offer such clear-cut formulations as Kant on this issue, he does hold that in certain circumstances people do have a right to rebel. What interests me here is the limited point I have been pursuing in this chapter, namely, the extent to which Hegel's position on this matter can be brought back to his constructivism of spirit's *actuality*. Thereby it will be made clear how the different frameworks that I indicated as the constructivism of the ideal and the real yield different implications when at issue is a more specific and concrete political issue, an issue that, in addition, deeply resonates with the philosophers' respective historical actuality. In addressing the problem

of poverty and social alienation within the sphere of civil society, Hegel allows that the poor, pushed to the extremes of necessity, have a right to rebel against the existent ethical-political order on the grounds that civil society's organization, itself the cause of poverty, makes the realization of their freedom impossible.¹⁶ Importantly, at stake herein is not the spurious principle of happiness upheld by Kant's interlocutors in *Theory and Practice*. It is, instead, the very "ideal" principle that justifies the normativity of the political order in its actuality (or in its actual shape), namely the *Verwirklichung* of the idea of freedom. The system of right, after all, is defined as the concrete expression of human freedom: it is "the realm of actualized freedom" (R§4). The point for Hegel is that there should be no "ought to" here: if the ethical-political system and the economic order of civil society do *not* express such actualized freedom (hence they merely ought to express it), then they lack legitimacy and rationality and should be changed. Accordingly, in the case of the poor, given that their condition is due to the way civil society makes a form of free *Dasein* and self-realization for their wills impossible, a right to rebellion should be admitted. Poverty is indeed the intractable contradiction at the heart of modern civil society – a contradiction that Hegel's theory brings to consciousness, as it were.¹⁷ This is the sphere in which the individual's self-satisfaction and self-interest is fulfilled. Poverty, however, is itself the result of the development of the principle of self-interest within this sphere – it is the sign that individual freedom is *not* fulfilled in existence.

5. Political Theory and the Historical Present

By way of conclusion, I want to briefly bring a final question to Kant's and Hegel's theories – a question that I raised at the beginning of this chapter and I consider central to any political theory as such. At stake is the way in which the political theory as a philosophical theory – the constructivism of the ideal and the constructivism of the real respectively – confronts its own historical present and, more generally, brings itself into a relationship with history and historical praxis. I take as a paradigmatic Kantian text the concluding remarks against Hobbes in the *Theory and Practice* essay, and I shall refer to Hegel's well-known pronouncements on the matter in the preface to the *Philosophy of Right*. Kant alerts us to the danger of using historical-political practice and experience as the measure to decide the crucial "question of what the requirements of a good state constitution are" (AA VIII, 305). This is a central political question that may easily be seen as answerable *in praxis* sidestepping all theory (i.e., all "theory of political right" and ultimately all ideal principles of right). In this case, historical experience and practice are the model, while theory is simply disposed of. The problem with such a "realist" model is the normalization and absolutization of the *status quo*. If the

ideal (hence the theory) does not orient our judgment on the present and on the practices carried out in it but is rather obtained empirically by abstracting from actual practice (hence is not, properly, an idea), what results is the dangerous absolutization of the contingency of the present state (of right and welfare) and, in particular, the assumption of the reigning self-interest as the rule. "Nowhere will a practice that foregoes all pure principles of reason more arrogantly deny theory than with respect of the question of what the requirements of a good state constitution are." Kant's explanation is, in effect, an extremely perceptive one. "This is because a long-standing lawful constitution gradually accustoms the people to make it their rule to judge both their happiness and their rights on the basis of that previous state of affairs in which everything has proceeded calmly" (AA VIII, 305). The problem with such historical realism and gradualism is that judgment is already skewed in favor of the status quo since in this case the real is judge in its own cause, and no rational idea guiding politics is admitted (the a priori principle of right yields to the empirical concept of happiness). Indeed, "since all constitutions that have endured for a sufficiently long time, their inadequacies and differences be what they may, yield uniform results, namely, satisfaction with the state one is in, it follows that when one looks to the people's welfare, everything depends not in the least on theory but only on practice that derives from experience." On this basis, however, given the human being's antagonistic and self-interested nature, no free civil political order is possible – not only is it not (and cannot be) actual at any point in history, but it is not something that ought to be strived for. It is only if "political right" is assumed as an idea grounded a priori in reason that the normative judgment can be pronounced that all actual "practice that does not conform to political right lacks all legitimacy" (AA VIII, 306). Now, the latter position, Kant warns against Hobbes, is the only defense against paternalism, tyranny, and the destabilization caused by revolution. "If there is nothing that immediately commands respect through reason (such as the rights of men), all influences on human wills are incapable of restricting their freedom" (ibid.), which is precisely what the principle of right (and it alone) as the basis of a just political order does. Kant's argument herein conjoins a realist view of human history (for one thing, the antagonism and egoism of human nature along with its tendency to a-critical passivity) with his constructivism of the ideal which is not so much disjoined from history as instead rendered immanent to it as the only possible source of a normative moral and just order. The crucial point is that political and historical actuality must be informed by the ideal (and not vice versa) for a just political constitution to be possible. Accordingly, one should conclude that no philosophical theory of right can be blind to or oblivious of its own contemporary world as it rather carries a fundamental responsibility toward it.¹⁸

Hegel's model may seem *prima facie* the opposite to Kant's. However, upon further reflection it is perhaps not so far from it in its conclusion. For Hegel, the dimension of the present is the *Wirklichkeit* in which the rational ethical idea is realized in the form of the political state object of his *Rechtswissenschaft*. The standpoint of the present is the unavoidable standpoint of the philosophical theory of right itself. A famous passage from the preface to the *Phenomenology*, inscribing this work within a present in turmoil in the aftermath of the French Revolution, draws attention to the necessity of distinguishing the immediate evidence of "*das Bekannte*" – the current predicament well known and felt by everybody – from "*das Erkannte*," which is the present conceptually and rationally apprehended by philosophical thinking (TW 3, 35).¹⁹ This warning applies to the *Philosophy of Right* as well (and is an argument in favor of the need of theory in relation to immediate political praxis).

The famous remark on the function of philosophy in relation to actuality that concludes the preface to the *Philosophy of Right* indicates, more pointedly and specifically, the type of problem with which a "philosophy of right" should concern itself under the historical conditions dictated by the present age. The claim is well known. Hegel maintains that as "thought of the world (*Gedanke der Welt*)," philosophy is necessarily bound to its historical actuality. This is even truer for a reflection on the world of *spirit*, on a world that is the product of spirit's activity and owes its actuality to the activity that has produced it. It is also true, however, that in relation to the historical reality, its conceptual comprehension emerges always "too late." Herein, Hegel seems to reverse the relation between conceptual comprehension (or idea) and historical actuality established by Kant. The idea does not come first (as an *a priori*). It always comes last, being itself a historical product and construction. In this delay subsists the specificity of the *philosophical* comprehension of spirit's world (or theory) in contrast, for instance, to direct political activity (or praxis). Hegel famously insists that as the rational comprehension of the world of spirit, philosophy "appears only at a time when actuality has gone through its formative process and has attained its completed state" (TW 7, 28). This explains why, with regard to actuality and its conflicts, philosophy comes always "too late" – too late to give instructions on how the world "ought to be," too late to solve its contradictions, prescribe norms, and change the course of history. This, however, is neither its function nor its aim. The philosopher is not meant to be a king. But if the normativity of philosophical concepts in the practical realm is not the immediate grip on reality proper to political action, nor is it the alleged ideality of platonic ideas detached from reality (a notion that Hegel rejects as inaccurate even in Plato's case). The defining function of Hegel's practical philosophy is the *function of raising the relevant questions under specific historical conditions and of asking them in a theoretically relevant and practically engaged way*. The contours of what counts as "relevant"

extend (at least) to what is morally, ethically, and politically – as well as culturally and historically – significant. These coordinates, which constitute what I have called the “relevance condition,” define the realm of freedom as the realm of its actualization (Nuzzo 2013). Relevance is the condition of the normativity of practical concepts. These have a grip on reality, that is, they are normative for subjects acting in the world, not because the philosopher has the power of giving instructions on how the world should be, not because philosophy can or should aspire to be politics, but because philosophical concepts are theoretically, practically, and historically “relevant.”²⁰ Indeed, Hegel’s practical philosophy begins and ends with objective spirit rooted in the historical present. It begins and ends by interrogating the “present state of humanity” and diagnosing its innermost “need.” Now *this* is no trivial task. In fact, to identify “what are the outstanding questions of the day . . . requires both cognitive exertion and moral courage” (Geuss 2005: 30, n. 2) – the point that Hegel states by appealing to the “courage of truth (*Mut der Wahrheit*)” in his 1818 *Antrittsrede* (TW 10, 404). Hegel construes the task of a comprehensive practical philosophy introduced under the title of “philosophy of right” not as the (moralizing or political) task of instructing the world on how it ought to be, but as the task of bringing to consciousness the most relevant questions of the time. Now as the questions that the philosopher asks betray the alternatively adequate or skewed relationship that thinking enjoys with the present, the relevance of the questions becomes a criterion for evaluating the relevance of the theory even before getting to the answers that those questions receive.

Conclusion

To sum up the earlier argument: the reference to Vico’s early formulation of the constructivist principle has allowed highlighting the nature of Kant’s and Hegel’s properly *constructivist* practice, that is, their view of the *making* involved in our human collective action (which is, respectively, practical reason’s and spirit’s activity). This is the point that is generally left unthematized in the contemporary discussion on practical constructivism: what is construction in praxis? Moreover, Vico’s position in the *De Antiquissima* already discloses the two paths that constructivism will follow in Kant and Hegel: Kant’s constructivism of the ideal, closer to the limited making proper of the human mind; Hegel’s constructivism of the real, closer to the production of the divine mind or better, with the *Scienza nuova*, closer to the historical and cultural production of the collective human mind.²¹ Herein, however, Kant and Hegel advance the discussion insofar as what they see at stake in such a construction is the way in which human freedom is made real or actual in the historical world. The conclusion I want to draw from these considerations is that despite their fundamental differences, Kant’s and Hegel’s constructivist

political theories are not so far apart with regard to the general issue of the necessary commitment and responsibility toward the historical present – a commitment and responsibility that both philosophers see as built into the very theory itself. This is a point that Rawlsian constructivism seems, instead, to have abandoned. And yet we have also seen that in more specific political matters such as the question of the right of rebellion, the constructivism of the ideal and the constructivism of the real yield very different philosophical positions.

Notes

1. My argument here will be systematic rather than historical. Significantly, while Vico is mentioned in the literature in connection with Hegel's historicism (in this regard it is the Vico of the *Scienza nuova* who takes the center stage) and with Kant's epistemology, he is never brought into the discussion of constructivism in *practical* philosophy. What interests me, by contrast, is to stress the importance of the systematic reference to Vico in the discussion of the practice of construction in moral and political philosophy. In this regard, I concentrate on the *De Antiquissima* as the text in which the constructivist principle is uniquely formulated. (For epistemological constructivism in German Idealism, see Rockmore 2007, 2016).
2. See AA VIII, 309–310: "The argument that something has until now been unsuccessful and therefore shall never be successful does not justify abandoning even a pragmatic or technical intention . . . much less a morally obligatory one, unless, of course, its attainment is demonstrably impossible."
3. It is also not to be answered in the affirmative in the entire medieval Christian tradition; see Geuss (2005: 43).
4. Given an understanding of truth to be specified (see later in chapter).
5. See Croce (1912) for a discussion of Vico's originality; Mondolfo (1969) for the history of the principle before Vico; Rockmore (2007: 104) mentions Thomas Hobbes as the "inventor" of the principle; Badaloni (1968) addresses the contemporary framework of Vico's principle.
6. The question that I posed at the outset has its place here: what kind of whole is thereby instituted?
7. I here take for granted the point made by Morrison, who insists that Vico's principle "is not a version of the Correspondence Theory of Truth. Vico is not saying that a proposition is true if and only if it corresponds to . . . a fact." The claim is rather that "the true" is like "the made" "an *entity*" (Morrison 1978: 582).
8. This is the sense in which what is *factum*/made by God is "given" as *datum* (what we call "fact") to the human mind.
9. Friedrich Henrich Jacobi is the first to notice the way in which Vico's principle "anticipates" Kant's philosophy, see Jacobi (2000: 78ff.); see already Croce (1912) and Otto (1989: 118) on Jacobi's remark.
10. I will not dwell here on an analysis of this doctrine. What interests me is only the meaning of *Faktum* in this context, which will immediately be contrasted to the meaning it has in the *Theory and Practice* essay.
11. These consequences, stretching out to our own political actuality, are pointedly addressed in De Laurentiis (2016); for Kant and Garve, see Wolff (2008).
12. In this sense, "only" an idea of reason means that only at the condition of being kept "pure" can the idea be normative.

13. See Wolff (2008) and De Laurentiis (2016).
14. For Hegel, the “concept” or *Begriff* is the self-producing or self-constructing power of rationality. Vico’s notion of the divine mind immediately producing the true in its actuality can be a useful model to understand the way Hegel’s “concept” gives itself reality as idea. The concept, viewed from the side of the accomplished production of its own reality (i.e., the concept “actualized” is the “idea”). Herein, Hegel corrects Kant’s view, according to which “concepts” need “intuitions” in order to show “objective validity,” (i.e., reference to real objects). For Hegel, the concept *gives itself* objective reality.
15. See note 14.
16. See Hegel (1983); also James (2006).
17. It is not simply a contradiction at the heart of Hegel’s theory as claimed by James (2006: 344).
18. See, by contrast, Geuss’s remarks on Rawls mentioned at the beginning of this chapter, and also Nuzzo (2013).
19. See Nuzzo (2018: ch. 1).
20. Notice that they are normative because they are relevant (i.e., express the relevant question of the time); they are not relevant because they are normative.
21. I have stressed that at stake here is not a historical but a systematic argument.

References

- Badaloni, N. (1968). L’idée et le fait dans la théorie de Vico. *Les Etudes Philosophiques* (3/4): 297–310.
- Croce, B. (1912). *Le fonti della gnoseologia vichiana. Memoria letta all’Accademia Pontaniana, 10 marzo, 1912*. Napoli: Giannini e Figli.
- . (1965). *La filosofia di G.B. Vico*. Bari: Laterza.
- De Laurentiis, A. (2016). Rights-Pragmatism and the Right of Humanity. *International Politics in Kant’s and Hegel’s Perspective. Archiv f. Rechts- und Sozialpolitik* 102(1): 22–39.
- Geuss, R. (2005). Neither History nor Praxis, in *Outside Ethics*. Princeton: Princeton University Press, 29–39.
- Hegel, G.W.F. (1983). *Philosophie des Rechts: Die Vorlesungen von 1819/20 in einer Nachschrift*, ed. D. Henrich. Frankfurt a.M.: Suhrkamp.
- . (1986). *Werke in zwanzig Bände*, eds. E. Moldenhauer and H.M. Michel. Frankfurt a.M.: Suhrkamp (=TW).
- Jacobi, F.H. (2000). *Von den göttlichen Dinge und Ihre Offenbarung, Werke*, eds. K. Hammaker and W. Jaeschke. Hamburg: Meiner.
- James, D. (2006). Kant and Hegel on the Right of Rebellion. *History of Political Thought* 27(2): 331–348.
- Kant, I. (1910). *Kants gesammelte Schriften*, ed. Preußische Akademie der Wissenschaften. Berlin: De Gruyter (=AA).
- Miner, R.C. (1998). *Verum-Factum* and Practical Wisdom in the Early Writings of Vico. *Journal of the History of Ideas* 59(1): 53–73.
- Mondolfo, R. (1969). *Il Verum-Factum prima di Vico*. Napoli: Guida.
- Morrison, J.C. (1978). Vico’s Principle of Verum is Factum and the Problem of Historicism. *Journal of the History of Ideas* 39(4): 579–595.
- Nuzzo, A. (2013). Contradiction in the Ethical World. Hegel’s Challenge for Times of Crisis, in G. Hindrich and A. Honneth (eds.) *Freiheit, Akten der Stuttgarter Hegel Kongress 2011*. Stuttgart: Klostermann, 627–648.

- . (2018). *Approaching Hegel's Logic, Obliquely: Melville, Molière, Beckett*. Albany, NY: State University of New York Press.
- O'Neill, O. (2015). Constructivism in Rawls and Kant, in *Constructing Authorities: Reason, Politics and Interpretation in Kant's Philosophy*. Cambridge: Cambridge University Press, 69–85.
- Otto, S. (1989). *Gianbattista Vico*. Stuttgart: Kohlhammer.
- Rawls, J. (1980). Kantian Constructivism in Moral Theory. *The Journal of Philosophy* 77(9): 515–572.
- Rockmore, T. (2007). Hegel et le constructivisme épistémologique. *Revue de Métaphysique et de Morale* 1: 103–113.
- . (2016). *German Idealism as Constructivism*. Chicago: University of Chicago Press.
- Vico, G. (1971). *De Antiquissima Italarum Sapientia*, in *Opere filosofiche*, ed. P. Cristofolini. Firenze: Sansoni.
- Wolff, M. (2008). Moral in der Politik. Kant, Garve, Hegel. (Unpublished manuscript).

7 Kant, Hegel, and Our Fate as a *Zoôn Politikon*

Kenneth R. Westphal

1. Introduction

In contemporary mainstream moral philosophy (embracing both ethics and justice), recourse to social ontology has been widely regarded as courting conventionalism, relativism, or worse. “Communitarianism” holds that moral universalism has failed, because all normativity is local, though communities may find better or worse ways of cohabiting on Earth. Most twentieth- (and twenty-first-) century (C.E.) Anglophone ethics has either held out for one or another untenable form of moral realism, or has insisted that all normativity is individualist, so that the best we can do is construct mutually acceptable principles to govern our localities. I shall argue that such views represent major failings in moral understanding, and in moral self-understanding. Please note that here I focus upon our capacity to *be* moral agents; I set aside issues of normative justification or criteria, having addressed these *en detail* elsewhere (Westphal 2016a, 2020a: §§8–11). First, I briefly characterize Hume’s key insight that, even if the most fundamental principles of justice may be artificial, they are not at all arbitrary because they are altogether necessary for human life on Earth, both individually and collectively (§2). This insight is central to what I call “Natural Law Constructivism”: a methodological kind of moral constructivism which identifies and justifies basic, strictly objective moral norms, altogether independently of issues about moral (ir)realism and human motivation. The importance of artifice to justice is underscored by Hobbes’s two key points regarding the nongovernmental state of nature (§3). I then review some central reasons why Aristotle argued that we as individual moral agents are fundamentally *zoae politike* (§4). By design, Kant’s Doctrine of Justice abstracts from subjective – intellectual or affective – features of human agency to identify basic forms of elective juridical relations. However, those relations – rights and duties – can only be acquired by rational agents who can understand and abide by them; this Kant stresses in the Introduction to his Doctrine of Virtue (§5). We

are not born with such understanding, nor self-discipline; we are only born with innate capacities which enable us to acquire such understanding and self-discipline – through nurture, upbringing and education! Kant thus *agrees* with Aristotle about how and why we are a *zōon politikon* (§6). These results show how, according to Kant, even if moral realism may be true, our juridical principles, institutions, practices and our individual juridical rights and duties, all of them, are *our* collective, social artifice, responsibility, and accomplishment – so far as we may have achieved tolerable justice within some polity or jurisdiction. These results then (§7) highlight the significance of how and why the first two parts of Hegel's *Philosophical Outlines of Justice* (1821, *Rph*) – “Justice in the Abstract” and “Morality” – map precisely onto the two parts of Kant's *Metaphysics of Morals*, namely onto Kant's Doctrines of Justice (“*RL*”) and of Virtue (“*TL*”). Hegel's account of *Sittlichkeit* (*Rph*, Part 3) not only undergirds Kant's a priori system of moral principles by showing how they can and ought to be institutionalized within a Modern republic, but also undergirds Kant's agreement with Aristotle by showing how the customs, economy, civil institutions, and law of a republican nation are quite literally our artifacts, all of which are produced by our free human agency and activity. It is fundamental to human nature to have a second moral, social, and historical nature. This Hegel substantiates by his subtle reconsideration of Roman law, Scotts political economy, Ferguson's *Essay on the History of Civil Society* (1767), and Montesquieu's *Spirit of the Laws* (1748). I conclude by noting some basic, important goods of republican constitutionalism, which require us to renew our understanding of and our obligations and commitment to the common good and the liberal education these require (§8).

2. Hume's Insight: Natural Law Constructivism

Socrates's justly famous question to Euthyphro (10de) highlights a fundamental dichotomy in moral philosophy:

Either: Moral realism (in some version) is true, in which case there are objective moral standards.

Or: Moral non-realism or antirealism (in some version) is true, in which case moral standards are artificial.

This second option only becomes pressing in view of this further ‘Optionality Premise’:

Optionality: If moral standards are artificial, then they are relative, conventional, or arbitrary, and so are not objective.

This Optionality Premise is pervasive in moral philosophy. To the minds of many moral philosophers, this threat of relativism, conventionalism, arbitrariness, or (in sum) lack of objectivity has made moral realism appear mandatory. However, articulating and justifying a tenable form of moral realism have defied repeated attempts to do so, indeed, for reasons quintessentially formulated in the Pyrrhonian Dilemma of the Criterion (*PH* 2.4.20; cf. 1.14.116–7). Very briefly, the key problem confronting moral realism is that, as a group, moral realists disagree fundamentally about what are, so to speak, “the real moral facts,” and no one has developed an adequate account of moral knowledge or moral justification to distinguish between true or false, or between better or worse justified, claims about those alleged “real moral facts.” Moral realism too easily falls into moral dogmatism and moral relativism, as is anticipated by the Pyrrhonian Dilemma of the Criterion (Westphal 2020a: §§8–11).

A key question is thus: Is the Optionality Premise true? Does the artificiality of basic moral principles entail that they are arbitrary? No. This key insight is stated directly and originally by Hume:

Though the rules of justice be artificial, they are not arbitrary. Nor is the expression improper to call them Laws of Nature.

(*T* 3.2.1.19)

This insight is fundamental to Hume’s theory of justice, which inaugurated a distinctive approach to natural law theory, which I call “Natural Law Constructivism” (Westphal 2016a).¹ The key to providing objectivity within a constructivist moral methodology is not to appeal to subjective states but instead to appeal to objective, attitude-independent facts about our form of finite rational agency and circumstances of action basic to the human condition. More specifically, Hume’s theory of justice focuses on physiological and geographical facts about the vital needs of human beings, our limited capacities for acting, the relative scarcity of materials required for us to meet our vital needs, and our ineluctable mutual interdependence. The principles constitutive of possession, promise, and contract Hume constructs on their basis merit the designation “Laws of Nature” because for human beings they are utterly indispensable and so are non-optional.² If successful (Westphal 2016a argues *en detail* that it is), Hume’s Natural Law Constructivism breaks the deadlock in moral theory between moral realists and their detractors, by showing that their debate is irrelevant to identifying and to justifying basic, objective moral principles. If indeed moral objectivity can be justified without reference to moral realism *nor* to its alternatives, this is a major breakthrough: We need not settle that debate in order to identify or to justify objective basic moral principles.

3. Why Moral Artifice?

In his account of total mutual interference in the nongovernmental state of nature, Hobbes's two most fundamental points are not psychological but juridical and cognitive.³ Hobbes's two key points are these:

- 1) Unlimited individual freedom of action is impossible due to consequent total mutual interference. Hence the fundamental moral question is not whether individual freedom of action may or must be limited, but rather: What are the proper, justifiable limits of individual freedom of action?
- 2) Complete though innocent, non-malicious *ignorance* of what belongs to whom suffices to generate the total mutual interference characterized in the nongovernmental state of nature as the war of all on all. Consequently, justice must fundamentally be *public* justice, to remedy such ignorance and thus to substitute social coordination for chronic mutual interference.

This second point may be called the "Innocent Problem" of mutual interference. It entails that no account of (putative) rightful relations between any one individual and any one physical object – nor any account of (putative) rightful relations between any one individual, any one physical object, and the divinity – suffices *in principle* to identify or to justify basic principles of justice. Thus does Hobbes refute prior natural law theories, and also Locke's.⁴ Hobbes's two points entail that the most basic moral problems are fundamental problems of social coordination. These social coordination problems are problems of justice, yet they are also fundamental ethical problems: One of our foremost ethical duties, as guides to individual action, is to abide by the dictates of justice! Can we do so? How? What is required of us such that we can *be* responsible agents? (Recall that here I set aside issues of criteria, normative justification, and legitimacy, in order to focus on issues of social ontology and moral agency.)

4. It Takes a Polity

If we read Aristotle's moral philosophy as the continuous whole he conceived, embracing ethics, politics, justice, *and* education, it becomes clear why and how Aristotle argued that justice in the individual's soul requires justice in the polity's constitution.

4.1 *Why We Are a Zoôn Politikon*

One central reason for this is that we are a *zoôn politikon*. Aristotle's point does not merely concern our habit of herding together into

communities. Aristotle argues instead that whatever capacities we are born with – our first nature – can only become distinctively human, and we can only become distinctive *persons*, insofar as we are raised, trained, and educated so that we can use our capacities and our acquired skills, knowledge, and character properly, and indeed: as well as we can. We *homo sapiens semi-sapiens* cannot be, nor can we become, persons without our proper cultural second nature. Consider one key passage from Aristotle's *Politics*:

[I]f the individual separated from the city is not self-sufficient, his relation to it corresponds to that of parts to wholes in other cases; and anyone who is incapable of membership in a community, or who has no need of it because he is self-sufficient, is no part of a city; and so is either a beast or a god. Everyone has a natural impulse, then, towards this sort of community; and whoever first constituted it is the cause of the greatest goods. For just as a human being is the best of the animals *if he has been completed*, he is also the worst of them if he is separated from law and the rule of justice. For injustice is most formidable when it is armed, and a human being naturally grows up armed and equipped for intelligence and virtue, but can most readily use this equipment for ends that are contrary to intelligence and virtue; hence without virtue he is the most unscrupulous and savage of animals, the most excessive in pursuit of sex and food. Justice, however, is political; for the rule of justice is an order in the political community, and justice is the judgment of what is just.

(*Pol.* 1.3:1253a19–39; emphasis added)

C.D.C. Reeve (1998: xlix) epitomizes Aristotle's view thus: Not everything with a defining nature realizes, completes, or perfects its nature merely *by nature*. In some cases, artifice, *craft*, is required "to perfect or complete the task that nature is unable to perfect or complete" (*Ph.* 3.3:199a15–16). Human beings exist by nature and so have defining natures (*Ph.* 2.1:193b5–6), but to perfect our defining natures we must acquire the virtues, in part through habituation and the craft of education (*EN* 2.1:1103a17–26, *Pol.* 8.3:1332a39–b11, 1336b40–37a3). Things which exist by nature are distinct to products of craft (*Ph.* 2.1:192b8–33). Yet things which have their defining natures perfected by craft are not mere *products* of craft; their formal natures do not enter into them from the souls or minds of an artisan, as in genuine craft products (*Met.* 7.7:1032a32–b10). Instead, the potentials constitutive of their defining natures are further actualized by craft. That something requires its nature to be completed by craft is thus compatible with its having a defining, constitutive nature.

Reeve (1998: liii–liv) observes further that virtues of character determine one's conception of happiness. If one has the virtues in their

unqualified form, one also has a correct conception of happiness, and one possesses practical wisdom unqualifiedly (*EE* 5.13:1144b30–45b2). However, the virtues inculcated in citizens through public education are unqualified virtues of character only within the best constitution (*Pol.* 3.4:1293b1–7). Hence only in a proper constitution do those virtues which suit citizens to the constitution provide them a correct conception of their happiness or unqualified practical wisdom. The move from household to village, and from village to polity coincides with a development in human virtue and practical wisdom. Related types of virtue and of practical wisdom suited to these types of community form a series constituting a single nature developed to different degrees in these different communities. This is why Aristotle thinks human beings are by nature a *zoôn politikon*, because we develop, acquire, fulfill, complete or “perfect” our natures only within polities of a specified sort. Aristotle’s function argument purports to show that human nature consists in rational activity, either theoretical or practical, including political. Hence to complete or “perfect” our natures, we human beings must acquire and develop unqualified virtues of character. This we can do, Aristotle argues, only within a polity with the best constitution, which (*inter alia*) provides proper upbringing, in part through public education.

4.2 *Our Common Good*

Complementing Reeve’s findings, Randall Curren (2000: 71) shows that “completing” or “perfecting” our human nature is central to Aristotle’s account of a proper polity and its proper aim, the common good. What most accords with nature or justice is that cities form partnerships “in which every man, whoever he is, can act best and live happily” (*Pol.* 7.2:1324a24–25). Because the natural or proper aim of the polity is the best life for *all* citizens, and just law conforms to and promotes this natural end, and so promotes virtue (*Pol.* 3.6:1279a17–22, 3.9:1280b5–12, *EE* 4.1:1129b17–26), Aristotle regards regimes as illegitimate and corrupt to the extent that they rule by force and without consent; what is established by force without consent lacks authority and creates no obligation to obey (*Pol.* 3.3:1276a8–16; cf. Plato, *Laws* 715b); indeed: whatever is “established by force, and not for the sake of the common good” (*Pol.* 3.3:1276a13–14) is no act of state, but a private act without authority.

More positively, Aristotle contends that central to a just constitution and a legitimate polity is that it fosters and supports, rather than thwarts, just civil, political, and personal relations, in part by bringing the public good and individuals’ goods into proper alignment within the common good of the polity. This is the very point of political wisdom:

Do we love what is good for ourselves or what is good absolutely?
and is actual loving attended with pleasure, so that the loved object

is pleasant, or not? For the two must be harmonized. For what is not absolutely good, but perhaps bad, is something to avoid, and what is not good for one's self is nothing to one; but what is sought is that the absolutely good should be good in the further sense of being good to the individual. For the absolutely good is absolutely desirable, but for each individual his own; and these must agree. Excellence brings about this agreement, and the political art exists to make them agree for those to whom as yet they do not.

(*EE* 7.2:1236 b33–1237a3; cf. 2.5:1222a7–12, 1218b37ff, 7.1:1234b19–31)

According to Curren (2000: 75), Aristotle argues (*Pol.* 4.8) that a genuine polity is a form of government with entitlement to rule based upon a combination of wealth and freedom, a form of government in which both rich and poor participate; neither can promote its interests to the exclusion of the other, and both have reasons to foster the survival of the constitution and to accept its laws voluntarily. The term *politeia* (constitution) designates both the institutional aspects and offices of government (*Pol.* 3.6:1278b9) and the social order of a polis (*Pol.* 3.1:1274a39). In its institutional aspect, the constitution of a polity is mixed, combining elements typical of oligarchy and democracy, including institutional roles and offices for both rich and poor. In its social aspect, a polity is a “middle” constitution insofar as the social classes are more equal (*Pol.* 2.9:1294b24), which requires them to converge toward what is economically and socially the middle (*Pol.* 2.11:1295b25–29, cf. 4.9:1294b15–41), and so are neither polarized nor inclined to faction or conflict. This may not be an ideal polity, which is a partnership in pursuit of what is genuinely good for all, because its citizens likely will pursue various merely apparent goods, and may not be especially virtuous; neither will it assign shares in rule on the correct principle. Yet it meets Aristotle's conditions for constitutional legitimacy, and avoids some of the worst moral, political, and social problems.

Now I ask: What became of us as a *zoön politikon* in the Modern age? In practice, these historical, philosophical, and moral insights were decimated, though in sound moral theory they were reaffirmed, undergirded, and augmented – centrally though not solely by Kant!

5. Intelligible Possession and the Subjective Conditions of Acquired Rights and Duties

According to Kant, rightful acquisition, possession, use, and transfer are all “intelligible,” not merely empirical, relations. They are indeed *moral* relations: that is, *normative* relations, rather than metaphysical or (merely) empirical. These “intelligible” moral relations are “noumenal,” not because they are metaphysical, but because they can be neither

specified nor justified by empirical evidence alone, precisely because they *are* normative relations; they can only be specified by principles and their proper use in specific instances. As we shall see, these normative relations hold in any specific cases only because *we* hold ourselves responsible to recognize and abide by them. For this reason, too, these normative relations are “intelligible” relations.

Kant’s Doctrine of Justice abstracts from issues about agents’ characters or motives, and appeals only to the most minimal facts about our very finite form of embodied semi-rational agency to apply the Universal Principle of Justice (*MdS* 6:230) to us within our *conditio humane* upon Earth. Kant’s Doctrine of Justice examines the objective conditions required for the possibility of a host of forms of acquirable rights and duties. Kant’s Doctrine of Virtue (*TL*), however, examines the subjective conditions required for the possibility of any person able to acquire any such acquired rights and duties. These subjective conditions concern our capacity to recognize, claim, exercise, and act in accord with our sole innate right to freedom (*MdS* 6:237.29–31). These subjective conditions centrally concern our being morally *imputable* agents. In the Introduction to the *Metaphysics of Morals*, Kant states:

A *person* is a subject whose actions can be *imputed* to him. *Moral* personality is therefore nothing other than the freedom of a rational being under moral laws (whereas psychological personality is merely the ability to be conscious of one’s identity in different conditions of one’s existence). From this it follows that a person is subject to no other laws than those he gives to himself (either alone or at least along with others).

(*MdS* 6:223)

Ultimately, *all* our rights and obligations rest upon our moral imputability, which rests upon our own capacity – and our own self-regarding duty – *to hold ourselves accountable* to our moral obligations (*TL* §§2, 13, esp. 6:437–8). Two fundamental reasons this is so are: First, moral obligation only pertains to free, sufficiently rational agents, that is, *persons* (*TL* §§3, 13, cf. §16, 6:442). If our rational freedom and moral capacities are disregarded, there can be no specifically *moral* obligation (whether juridical or ethical); there can at most be mere management of human behavior, by managers whose rational freedom and moral capacities are (*ex hypothesi*) likewise disregarded. Second, our freedom and rationality are required to recognize, understand, and follow the dictates of morality, because these dictates are *normative* and so are merely *intelligible*, insofar as they can be neither specified nor justified by empirical considerations alone.

To be morally imputable requires not only that we are in fact free and (semi-)rational agents but also that we *understand* ourselves to be

free, sufficiently rational, *and* responsible agents. This requires us to understand why we must acquire various rights (*inter alia*) to possess and use things, why acquiring these rights constitutively involves our *obligating ourselves* to recognize and abide by others' counterpart rights, and what our own rights require of us as duties in our use, disposal, or exchange of our possessions (e.g., refraining from harmful or wrongful use).

Kant further argues that our self-regarding duties are constitutive of our recognizing and hence our *having* any duties towards others at all (TL §2, 6:417–8; cf. Timmermann 2013; Bacin 2013). Because our acquiring rights and duties are necessary for us to live at all, these points entail that our *being* responsible, morally imputable agents requires that we are raised, educated, and trained to autonomy (Herman 2007: 130–53; Dörflinger 2013). Kant recognized and indeed stressed that all our upbringing, training, and education are *social* phenomena. Kant thus *agrees* with Aristotle about how and why we are fundamentally a *zoôn politikon*, and only so can we *homo sapiens* semi-*sapiens* at all become, be, and comport ourselves as moral agents!

6. Kant, Aristotle, and *Zoôn Politikon*

6.1 Kant's Lectures on Pedagogy

In these lectures, Kant poses the question whether by nature human beings are morally good or evil. Kant answers:

He is neither of the two because by nature he is not at all a moral being; this he only becomes when his reason raises itself to the concepts of duty and of law. However, one can say that originally he has impulses to all vices, for he has inclinations and instincts which incite him, although reason drives him in the opposite direction. Therefore he can only become good by means of virtue, that is, by self-constraint, though without impulses he can be innocent.

Vices arise, for the most part, from the civilized state doing violence to nature, and yet it is our own vocation as human beings to emerge from our crude state of nature as animals. Perfect art becomes nature again.

Everything in education depends upon establishing the right principles throughout and making them comprehensible and acceptable to children. Children must learn to substitute detesting things because they are disgusting and absurd for abhorrence out of hatred; they must learn to have inner aversion replace the external aversion to human beings or to divine punishment, to have self-estimation and inner worth replace the opinions of human beings, to have the inner value of actions and deeds replace words and emotions,

understanding replace feeling, and joy and piety with good humor replace morose, timid or gloomy devotion.

(*Päd.* 9:492–3)⁵

On this same page Kant again stresses the centrality of educating children to develop their capacity to reason and to recognize and use principles.⁶

In his lectures on anthropology from 1791–1792, Kant puts this point concisely, using a term central to Hermann Samuel Reimarus's *Allgemeine Betrachtungen über die Triebe der Thiere, hauptsächlich über ihre Kunsttriebe* (1760):⁷ “*Kunsttrieb*.” In his 1791–1792 lectures on anthropology, Kant characterizes the human being as “a rational being (animal)” as follows:

Nature has given him no drives to artifice (*Kunsttriebe*); instead he must be raised, i.e., educated and trained, not merely fed. To conceive the first human being, how he spoke, how he could find his way about, how he could preserve himself, is completely beyond our [powers of] reason. The human being thus requires education, i.e., first, instruction; second, discipline, because even though by nature he resists it, he must be sociable, at least in his family, so he must be coerced into it. Discipline is limitation of a creature's own will under certain rules, which accord with the aim or end.

(Kant 1924, Ko 357–8; *KRW* tr.)⁸

Kant's uses the term *Kunsttriebe* as did Reimarus to characterize all forms of animal instincts to construct beehives, honeycombs, beaver dams, nests, and so on, so as to highlight exactly what we as a species and as individuals lack: by nature we have no such drives or instincts. Nor do we have the senses of predators, nor their claws, teeth, speed, or hard shells.⁹ Whatever any of us *can* accomplish, we can accomplish only because we have been raised and taught by others, which alone enables us to become knowledgeable, skilled, capable, or inventive. Only thus does any newborn *homo sapiens* non-*sapiens* become actually sapient, competent, imputable, and at least potentially responsible *as* an agent, as a person, as a *human* being. *This* is Kant's well-grounded agreement with Aristotle about how after all these eons, we *homo sapiens* semi-*sapiens* are fundamentally a *zoôn politikon*.¹⁰

6.2 *Becoming Imputable*

However, irresponsibly we may behave, we are persons only insofar as we act freely by deciding how to act and acting accordingly (cf. *KpV* 5:99–100). Actions are free only insofar as we can perform them for reasons – however inadequate or self-serving our reasons may be – by judging those reasons to act to be appropriate in our circumstances.

Those among us who are clinically, forensically incompetent morally may be managed, but none of their behavior can be morally imputed to them. Kant's key point is that anyone *being* morally imputable requires that she or he has the *capacity* to understand her or his circumstances, their morally relevant features, and competently to judge how properly to act. *Being* morally imputable requires that we have and can exercise the capacity to hold ourselves responsible to do as morality requires or permits (*MdS* 6:223, quoted above, §5).

Our capacity to legislate laws to ourselves is not our capacity to devise our own novel moral code; our capacity to legislate laws to ourselves is our capacity to author and to authorize our own obligation to do as morality requires and permits (*MdS* 6:227). Our capacity to hold ourselves responsible to our moral obligations involves constitutively our being our own innate judge of whether we have acted as we ought – or ought not. This is conscience (*TL* §13). All our rights and all our obligations rest upon our imputability, which rests upon our own capacity – *and* our own self-regarding duty – to hold ourselves accountable to our moral obligations (*MdS* 6:379–80, 437–8, cf. *KprV* 5:99–100). Only with sufficient nurture, upbringing, and education can we develop the skills, abilities, and understanding required for us to assume responsibility for improving our own virtue:

[A]lthough the capacity (*facultas*) to overcome all opposing sensible impulses can and must be simply *presupposed* in man on account of his freedom, yet this capacity as *strength* (*robur*) is something he must acquire; and the way to acquire it is to enhance the moral *incentive* (the thought of the law), both by contemplating the dignity of the pure rational law in us (*contemplatione*) and by *practicing* virtue (*exercitio*).

(*TL* 6:397, cf. *KprV* 5:117, 161)

Our developing our capacity, abilities, and our understanding such that we can become and so can *be* imputable agents requires, centrally, moral education and sufficient education to understand all our activities to which morality pertains – which is, of course, *all* our activities, which must at least be morally permissible within our present circumstances. If this involves our holding ourselves responsible to the requirements of morality, and if this may require distinguishing (at least) two aspects of our free rational agency: our self-assessing judging of ourselves as acting, or as having acted (*TL* §3), this we do as *integral* individual human agents (*TL* §4). In this connection it is worth recalling that Kant uses the common German term *Gemüt* (usually rendered into English as “mind”) to translate the Latin *animus* (soul), as in the Latin title of Aristotle's *De anima* – in order to *avoid* adopting either pole of Cartesian mind–body dualism.

6.3 *Self-Regarding Duty and Juridical Competence*

The self-understanding, the understanding of our actions and their principles, reasons, and implications, and the self-regarding duties constitutive of our imputability do not pertain only to Kant's Doctrine of Virtue: These self-regarding duties are constitutive of our capacity to recognize, to claim, and to exercise our sole innate right to freedom; they are equally constitutive of our capacity to acquire any specific instances of the forms of acquired rights (and correlative duties) Kant examines in the Doctrine of Justice. For example, merely muttering the words, "I promise . . ." does not suffice to make a promise. As (e.g.) Hobbes (*L* 1.14.13–16), Hume (*T* 3.2.5.3, 3.2.5.10), and Kant recognized, to *make* a promise is to pronounce by one's own words one's own assumption of responsibility to behave as promised. Making a promise requires understanding these implications, assumptions, and self-imposed obligations. Promising is an important case, though not a special case. Kant's analysis of forms of acquired rights in the Doctrine of Justice specifies the rights and correlative obligations anyone acquires by acquiring any right to any thing, or to any other person's act. Among those obligations is the obligation to recognize and abide by everyone else's counterpart rights.

Now the understanding required to acquire such rights and obligations may be more or less explicit. Like our experience and empirical cognition, our moral cognition, too, is enabled, facilitated, and largely enacted by extensive sub-personal cognitive processes (transcendental imagination; Westphal 2020b). If sufficiently informed, commonsense understanding suffices; crucial is moral self-discipline and sufficient foresight not to assume responsibilities one is unlikely to be able or willing to honor.

Altogether regardless of the "ontology" or the "metaphysics" or the "truth makers" of moral claims, the *principles* (types) which structure and thus enable any use of any principle of justice in any instance (tokens, specified entitlements) are only *instituted* insofar as we recognize these principles, understand them, and embody them in our actions, including our active self-assessment regarding whether or how well we honor our obligations, refrain from abusing our acquired rights, and injure no one else's sole innate right to freedom, nor their acquired rights. These features of the moral principles and practices of justice and of virtue all hold *regardless* of issues about moral (ir-)realism and *regardless* of issues about moral motivation. *This* is why Kant's Doctrine of Justice abstracts entirely from subjective conditions of finite human rational agency, to identify and to justify the objective principles of justice (justifiable forms of action). Yet none of these objectively justified and justifiable forms of just relations, actions, and interactions are at all *instantiated* or *used* without *our* fulfilling the subjective conditions required for imputable action by honoring our key self-regarding duty to scrutinize whether or how well we are indeed honoring our moral requirements. Only because

we are imputable, insofar as we can hold ourselves responsible to do only what morality requires or permits, can we claim or exercise our sole innate right to freedom, or can we claim and rightly exercise any instances of the forms of acquired rights detailed in Kant's Doctrine of Justice (cf. *MdS* 6:215, 216).

Kant's critical philosophy shows that we can only claim or acquire a right insofar as we thereby also acquire – in and by our own, very same act – the obligation to recognize, respect, and abide by others' counterpart rights, insofar as we impose that acquired obligation upon ourselves, *and* we impose upon ourselves the obligation to exercise our acquired right properly, that is: justly and legitimately. We can claim, hold, and exercise rights only insofar as we recognize and abide by our correlative obligations (cf. Westphal 2016a: §§35–38); only thus are we imputable agents. Such self-understanding, self-discipline, and self-regarding duties of moral integrity are constitutive of moral agency, which we acquire through training to autonomy (Herman 2007: 130–153; Curren 2000, 2010; Dörflinger 2013; Westphal 2016b, 2020a: §§25–30). Our imputability requires our capacity to act responsibly (*KprV* 5:99–100); our capacity to *be* responsible requires our understanding all that is involved in acquiring, claiming, and exercising our rights *and* assuming and fulfilling our duties, both self- and other-regarding.

Yes, we can be taught and we can learn to believe and to behave as if we are nothing but nodes of utility maximization, yet this is but one more variation on the ancient observation (quoted above, §4.1) that *homo sapiens* semi-*sapiens* cannot be animals; we can only be something better or worse. As regards maximal utility, J.S. Mill remains correct when he claims:

It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, is of a different opinion, it is because they only know their own side of the question.

(Mill 1861, *Util.* 2.7, *CW*10:212)

The self-discipline constitutive of moral agency includes an important Stoic element: the freedom, liberty, and moral integrity to disregard any or all of one's own inclinations, desires, or impulses, and to exercise this liberty – *our* liberty from our own apparent interests – whenever justice so requires (*Rph* §§4, 45, 126). This liberty is required to grant to morality the priority it deserves over any and all other interests. This is constitutive of our rational freedom of will, of our autonomy (*TL* §52, 6:480; *KprV* 5:33, 42, 87, 125–6, 132). In precisely this regard, Hegel, Kant, and Rousseau all agree with the Stoics:

[I]t is *slavery* to be under the impulse of mere appetite, and *freedom* to obey a law which we prescribe for ourselves.

(CS 1.8.3; cf. *TL* 6:407–9)

Because all action aims to achieve some end, the self-regarding end in view in all ethical duties is one's own moral perfection; this end can and ought to displace those prospective self-interested ends (including appetites), the achievement of which transgress moral duties, whether of justice or virtue (*TL* 6:384–9, cf. 390–1; cf. Trampota 2013; Denis 2013).

I hope to have made evident that many misunderstandings of Kant's moral philosophy are long overdue for correction, in particular, presumptions that Kant's moral philosophy is individualistic. Because the relations between justice and virtue are complex, and Kant treats them with the care and detail they deserve and require, it is understandable that his account of their relations has eluded most commentators.¹¹

One prominent such misunderstanding merits prompt correction. In their entry on justice as a virtue in the Spring 2016 edition of *The Stanford Encyclopedia of Philosophy*, Mark LeBar and Michael Slote claim:

In Kant we see the completion of the distinction between justice as a virtue and justice as a norm to which a virtue may or may not correspond. While Kant has a theory (or “doctrine”) of virtue, he distinguishes that theory precisely against a counterpoised theory of justice. The two are complementary elements in the “metaphysics of morals.” Moreover, the doctrine of justice itself has two parts, roughly corresponding to the distinction present since Plato's work, between the role of justice in the individual and the role of justice in the state. Kant calls these “private right” and “public right,” respectively. But right in either case is not how Kant at least conceives of virtue; instead, it is a “condition” that can obtain between the moral agents comprising a moral or legal community, in virtue of their principles of choice in acting (Kant 1797). Little remains here of the notion of justice as a virtue of individuals as it began with the ancient Greeks.

(LeBar and Slote 2016: §1.2, end)

Au contraire, little remains in this passage of the first virtue of just criticism: understanding the view to be assessed. For all their purported concern with virtues, LeBar and Slote patently have not studied Kant's Doctrine of Virtue, not even Kant's Introduction to it. There Kant states directly:

For it is the Doctrine of Virtue which commands that we hold the justice due human beings to be holy.

(*TL* 6:394)

Furthermore, the sole fundamental obligation of virtue holds equally of *all* duties, both those of justice and those of virtue (*MdS* 6:215, 221, *TL* 6:379, 387, 410). Kant's moral philosophy accords much more

thoroughly – in structure as well as content – with Aristotle’s than has generally been recognized.¹²

7. Hegel: Reintegrating Aristotle and Kant

That the Graecophile Hegel was sympathetic to Aristotle’s account of *homo sapiens* semi-*sapiens* as a *zoön politikon* is nothing new, but much remains to be said about just how and why he adopted and augmented Aristotle’s insight. Two obstructions obscuring Hegel’s actual views should be cleared away. First, too much commentary has sought to understand Hegel’s views as growing out of Kant’s Transcendental Idealism, neglecting how the relevant relation instead consists in Hegel’s thorough, strictly internal critique of Kant’s Transcendental Idealism, already in his early Jena essays, a critique which shows instead that Kant’s Critical account of rational judgment and justification, together with his semantics of singular cognitive reference, not only require no such idealism, but indeed can be developed more thoroughly and cogently without it (Westphal 2018)!¹³ Second, too much commentary has been preoccupied by Hegel’s apparent charge that Kant’s Categorical Imperative is nothing but an “empty formalism” (*Rph* §135R). Neglected in this regard is that Hegel’s Remark distinguishes not two, but *three* positions, only the third of which he ascribes to Kant, while only the first two are charged with empty formalism. The neglected second view is the spate of pseudo-Kantian natural law theories published in the 12 years between Kant’s *Groundwork* and *Rechtslehre*, all of which try to build a natural law theory only upon Kant’s *Groundwork* while neglecting Kant’s clear indication that the *principle* of the Categorical Imperative requires, for its application to a *zoön politikon* like us, appeal to “anthropology” (*Gr* 4:412). In the *Metaphysics of Morals*, this is specified as an appeal to “practical anthropology” (*MdS* 6:469), without which Kant’s system of a priori moral principles would indeed be mere empty forms (*MdS* 6:216–7, 464, 468–9).

One final preliminary remark: Hegel too belongs to the unjustly neglected strand of moral philosophy I call natural law constructivism, which runs from Hume through Rousseau and Kant to Hegel, and includes the work of Onora O’Neill, whose lead in these matters I once again am most happy to acknowledge, with abiding gratitude. Natural law constructivism is quite distinct to what has become known as “Kantian Constructivism” (see O’Neill 2003), hence the present chapter accords entirely with the aims of this volume. Back to Kant, Hegel, and our being reponsible *zoe* *politike*!

Note that the first two parts of Hegel’s Philosophical Outlines of *Justice* (1821, *Rph*) map directly onto Kant’s Doctrines of Justice and of Virtue – the two parts of Kant’s *Metaphysics of Morals*. Like Kant’s Doctrine of Justice, Hegel’s analysis of “Justice in the Abstract” analyzes objective

principles governing forms of acquired rights, in abstraction from considerations about what is required of any subject, such that she or he can claim any such acquirable form of right. Hegel notes that his account of contract largely accords with Kant's (*Rph* §80), yet Hegel develops the conditions for the possibility of acquired forms of rights so as to bring out the necessity, not only of social institutions of justice (*Rechtspflege*) but also the social, juridical, and the individual necessity of publically recognizable titles and morally competent impartiality, as demonstrated by various possible forms of wrongdoing (*Rph* §§82–104; cf. Westphal 2020a: §§44, 45, 51). Like Kant's Doctrine of Virtue, Hegel's account of "Morality" examines important constitutive characteristics of competent moral judgment, including impartiality. Kant's *Metaphysics of Morals* announces in its title and in its Prefaces (to each part) that it is limited to the a priori first principles of morals and expressly does not present a complete ethical theory (*MdS* 6:205–6, 375–7). Unless and until Kant's a priori principles of morals are supplemented by their proper complement, a "practical anthropology," those splendid a priori principles are indeed empty forms (*MdS* 6:216–7, 464, 468–9). Expressly to remedy this prospective deficiency, Hegel introduces his third and final part, *Sittlichkeit*, in order to preclude losing Kant's critical advances in a mere empty formalism:

So essential as it is to uphold the pure unconditioned self-determination of the will as the root of duty, since knowledge of the will has first achieved through Kant's philosophy its fixed ground and point of departure through the thought of its infinite autonomy (§133), so does fixation upon the merely moral standpoint, which does not become ethical life (*Sittlichkeit*), reduce that achievement to an *empty formalism* and moral science to a blather about *duty for duty's sake*. Upon this standpoint no immanent doctrine of duties is possible. (*Rph* §135R; *KRW* tr.)

Only subsequent to these remarks does Hegel expressly identify Kant's universalization tests of the Categorical Imperative; important here is that Hegel's *Outlines* expressly aim to develop a doctrine of duties, and specifically an "immanent" doctrine of duties (*Rph* §135R).

One central feature of a doctrine of duties is that our obligations and rights must be specified with sufficient determinacy that we can act according to them, we can in fact and in act abide by them, act on their basis, or execute them. Appealing to social practices obviously provides sufficient determinacy to be enactable, to guide individual agents' actions. The first question is whether or to what extent social practices are just, or at least are consistent with justice. That question Hegel answers by appeal to the principles and methods of natural law constructivism (Westphal 2020a, §§40–54), which provide a powerful and cogent

justification of our human right to freedom from domination by others (Westphal 2020a: §§30–39) – by far the most cogent justification known to me. Hegel’s account of *Sittlichkeit* undergirds Kant’s a priori system of moral principles by showing how they can and ought to be institutionalized within a robust, legitimate Modern republic.

Furthermore – and this is *much* further – Hegel’s account of *Sittlichkeit* undergirds Kant’s agreement with Aristotle by showing how the customs, economy, institutions, and law of a republican nation are quite literally our artifacts, all of which are produced by our free agency and activity. All of these help to form and to facilitate our development into free, rational, informed, and responsible – that is, *imputable* – individual agents. It is fundamental to human nature to have a second moral, familial, social, economic, juridical, civic, and historical nature. Thus Hegel shows, not only that social practices are sufficiently determinate to be enacted, but further: Tolerably just social practices are our free human creations, so that acting on their basis and availing ourselves of the enabling conditions constituted and provided by such social practices and institutions, including just constitutional law and legal statute, forms our proper Aristotelian second nature, by which alone we are able to become and to behave as responsible, imputable, and also effective, informed, sufficiently rational free agents. All these social institutions and practices are our own human artifice, and are decisive in our self-liberation as a *zôon politikon* from the limits of our merely natural constitution (our first nature) and the uncultivated nature within which our species developed. As Hegel states:

The basis of justice (*Recht*) is the realm of spirit (*das Geistige*) as such; more precisely its place and point of origin is the *will*, which is *free*, so that freedom is its substance and its determination, and the system of justice is the realm of actualized freedom, the world of spirit brought forth out of itself as a second nature.

(*Rph* §4, *KRW* tr.)

However, within individuals’ simple *identity* with actuality, what is ethical appears as their universal modes of conduct, as *customs* (*Sitte*); these *habits* are a *second nature* which, put in place of the initial, merely natural will, is the permeating soul, significance and actuality of the will’s existence, which as a world of living and available *spirit*, the will’s substance thus now is as spirit.

(*Rph* §151, *KRW* tr.)

This is what Hegel discerns by reconsidering Aristotle, Kant, Roman law, political economy (*Rph* §189R; cf. Plant 1977), Montesquieu’s *Spirit of the Laws* (*Rph* §3R), and Ferguson’s *Essay on the History of Civil Society*

(1767). Hegel thus agrees with and builds upon Aristotle's and Kant's views of how we *homo sapiens semi-sapiens* are, also in the modern age, a *zoön politikon*.

Like Montesquieu and later Jhering (1904), Hegel recognized that law does not simply confine or restrict freedom to avoid wrongdoing. Law literally forms – *bildet*, constitutes – a vast artificial system of principles, procedures, and practices – our social artifice which forms the *enabling conditions* of many kinds of needful, indeed vital actions and activities, both private and public. Complementing those principles, procedures, and practices, moral education fosters and informs the enabling conditions of imputable, responsible, effective, rational free agency. This is why Hegel so emphatically agrees with the ancient Pythagorean advice about how to raise a virtuous child: raise him – or her – in a polity with just laws! (*Rph* §153R, *VGPh* MM 18:271–2/2006, 2:52). This ancient wisdom has not altogether vanished, as Lynn Stout (2011) shows in *Cultivating Conscience: How Good Laws make Good People*. We are quite literally one another's moral keepers. We urgently need to revisit and revise our law, social practices, and educational systems to halt the ever-increasing production of imputable though irresponsible agents (Green 1999; Curren 2000, 2010; Westphal 2016b). We have excellent analyses of the gruesome assault upon conscience by Nazism (Koonz 2003; Grossman 2009), yet the abominations and atrocities committed at the US military detention center, Abu Ghraib, show that the proper lessons from fascism have not been properly learned nor institutionalized (Greenberg and Dratel 2005; Lankford 2009; Miles 2004). These are not someone else's problems: We urgently need to understand, stem, and counteract the numbing, befuddling effects of today's media glut before our individual and joint capacities for conscience are obliterated altogether (cf. Saracino and Scott 2008). Those who may think that grappling with public affairs endangers philosophical rigor or purity should reread Sidgwick (1898, 1904) and consider how and why moral philosophy became restricted to ethical theory and to metaethics after 1903. Like Sidgwick, Kant and Hegel knew better.

That something is amiss with our philosophical education and training in ethics is indicated by prevalent reliance upon the supposed dichotomy between “deontology” and “teleology” in ethical theory. This distinction was introduced by C.D. Broad's *Five Types of Ethical Theory* (Broad 1930: 206–7). However, Broad expressly introduced this contrast to mark two extremes of a methodological continuum, by which usefully to compare various ethical theories, though he states (correctly) that there are no purely “deontological” nor purely “teleological” ethical theories. Far too much recent debate about “consequentialism” *versus* “deontology” is predicated upon a false dichotomy.¹⁴

A further, though related, moral issue about education is raised by Jenn Dum and Robert Guay (2017), who argue that Hegel's and Honneth's

social theories suffer a decided neglect of formal education and schooling. Axel Honneth may still speak for himself; Hegel's views on formal education and schools deserve notice here. Dum and Guay acknowledge Hegel's broad concern with cultural *Bildung* and its facilitation by social institutions in civil society, but contend:

Strangely, neither Hegel nor Honneth devote much attention to formal educational institutions within their social theories. . . . Education is of course mentioned but typically as something that plays a role in allowing other social spheres to function properly. . . . For Hegel . . . the general notion of education is philosophically important as the process by which Spirit is raised to a fully self-conscious standpoint, and that by which persons are shaped into taking on the standpoint of their cultures. . . . But as Hegel . . . characterize[s] these educational processes, they do not concern formal schooling. So educational institutions are treated as if they are incidental to carrying out the proper ends of education, and, insofar as they are mentioned, schools' role in society is to serve the ends of other institutions. Educational institutions take their norms entirely from what is needed to prepare people for participation in other aspects of social life.

(Dum and Guay 2017: 294)

They continue:

For Hegel, education as *Bildung* is deeply important, but thoroughly non-institutional: *Bildung* takes place either on a philosophical level or on a cultural level, but in either case does not require the involvement of schools. Education as *Erziehung* does sometimes take place in an institutional context but it is not important that it does so; the same function can be performed informally. Its function, furthermore, is primarily instrumental: it provides training for participation in other spheres by conveying necessary skills but has little independent interest.

(Dum and Guay 2017: 298–9)

As an interpretation of Hegel's views on education and schooling, this is uncharitable in the extreme; indeed, it is literally incredible. Their first mistake is to lose Hegel's key focal point: training and educating individuals to become "free personalities" as "legally self-sufficient persons" ("*selbständige rechtliche Personen*"; *Rph* §§177, 180) – that is, as informed, capable, responsible, imputable members of the public *within* the modern republic (*Rph* §§132R, 166, 175, marginalium to *Rph* §157/MM 7:307, *Enz.* §§514, 522, 539R). Hegel's social philosophy places central emphasis on *public* reason and *public* reasoning, which requires an educated

public (Westphal 2020a: §§62–67). Yes, the aims of education lie primarily beyond formal education: to be educated only to be a perpetual student would be an absurd failure. Dum and Guay repeatedly refer only indefinitely to education “serving other institutions” while neglecting Hegel’s robust republicanism. As to formal institutions of education – schools – Hegel expressly defends *public* education (*Rph* §239+Z, cf. MM 10:400, 13:239–40), a point Dum and Guay (2017: 300) miss. “Schools, in this picture, occupy the gap between upbringing in the family and training in the sphere of work” (Dum and Guay 2017: 300). This “picture,” however, is Dum and Guay’s: they, not Hegel, reduce “civic life” to the “sphere of work.”¹⁵ They disregard the centrality of public reason within Hegel’s republicanism (Westphal 2020a: §§62–67); only thus can they blandly yet repeatedly claim that “education” in Hegel’s view is merely instrumental. They state that “Hegel seems to retrieve a sense of *Bildung* out of step with his time, one for which schools were not distinctively important” (Dum and Guay 2017: 300). Instead, Dum and Guay neglect too many important features of Hegel’s time, in which his *Philosophical Outlines of Justice* (1821) battled valiantly against conservative Roman lawyers and absolutist monarchy *for* republican constitutional monarchy (Westphal 2020a: §§68–76) and for the publicly educated civil servants such constitutionalism requires and deserves (MM 4:359, cf. 339–340, 582). They neglect Hegel’s several pedagogical addresses as Rector in Nürnberg, his later Report on Teaching Philosophy at the Gymnasium (1822/2002), the three stout volumes of his reflections on education compiled by Thaulow (1853–1854), the thoroughly Hegelian philosophy of education published by Hegel’s student Karl Rosenkranz (1848), the *three* editions and translations of the same into English (Rosenkranz 1872, 1878, 1892), and the more slender though not insubstantial selections of Hegel’s texts and lectures edited and translated by Luqueer (1896), *Hegel as Educator*. These items are also neglected by the secondary sources on Hegel’s philosophy of education Dum and Guay cite, as by other Anglophone handbook entries, though they are not difficult to find in library catalogs, nor on the web, where (currently) these nineteenth-century sources are freely available.¹⁶

8. Conclusions

The robust republicanism justified by natural law constructivism has a long history, known to modern republicans and “commonwealthmen” (Scott 2004),¹⁷ reaching back to Plato’s *Nomoi*, in which Plato’s Athenian spokesman proposes a mixed constitution, combining aristocratic and democratic features, aiming so far as is humanly, institutionally possible to afford publicly acknowledged competence and merit as foremost criteria for public office. Plato’s Athenian is so emphatic about this mixed, inclusive constitution that he dismisses all the forms of government in

the standard Greek taxonomy as “non-constitutions” because instead they are only so many forms of rule by faction (*Laws* 832cd). Plato’s term “non-constitutions” refers not simply to sets of laws with constitutional legal status; it refers to those laws as institutionalized within a polity to structure, guide, and facilitate its activities. Literally, Plato claims that the standard Greek taxonomy of constitutions are all *non-polities*! Instead, he wrote:

[T]he proper object of true political skill is not the interest of private individuals but the common good. This is what knits a state together, whereas private interests make it disintegrate. If the public interest is well served, rather than the private, then the individual and the community alike are benefitted.

(*Laws* 875ab)

Liberal individualists have been all too willing to assert a contrast, even a dichotomy, between the common good and individuals’ good(s). *That* is self-serving ideological nonsense! The common good consists in individuals’ good(s), consistent with justice and active, acknowledged, effective citizenship for all. Here we have the divide between the Enlightenment as a moral project and that historical period called “the Enlightenment” which saw, for example, the fateful contrast between the US Declaration of Independence and the notorious, inglorious 3/5 clause of the US Constitution (Art. 9, §1) regarding slaves counted toward “proportional representation” in the congressional House of Representatives. Many republicans and federalists among the founders of the US Constitution knew it was a racist compromise. Significantly, although Plato’s Athenian acknowledges the common institution of slavery (*Laws* 776–9), his constitutional theory bases little upon it.

In conclusion, I wish to stress – with Plato, Aristotle, Rousseau, Kant, and Hegel – that there are constitutional goods. The supreme constitutional good is robust republican citizenship for all, consistent with and informed by justice; second only to this is peace. None of these constitutional goods, nor justice itself, can be achieved without the liberal education required to become and to *be* free, informed, responsible, imputable citizens who can and do hold themselves responsible to do only as morality requires or permits. Altogether regardless of issues of ontology or human motivation, principles of justice are only institutionalized to the extent that we embody them in our own activities and practices by recognizing and holding ourselves responsible to them: They are *our* responsibility; insofar as they prevail, they are our deed and doing. Unfortunately, the same also holds for injustice and corruption. Quite literally, justice and legitimate freedom – both individual and collective – can only be a work of artifice: *our* work of artifice. Either we are conscientious in these and in all regards, or we are corrupt and corrupting;

tertium non datur.¹⁸ We have much to do: locally, regionally, domestically, and internationally. Unexpected though it may be, Hegel's robust, progressive republicanism charts these ways forward (Westphal 2020a).

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Notes

1. For a concise presentation in connection with Rousseau (rather than Hume and Kant), see Westphal (2020a: §§12–17).
2. "... if by natural we understand what is common to any species, or even if we confine it to mean what is inseparable from the species" (*T* 3.2.1.19).
3. Hobbes's insights are often overlooked in Anglophone discussions, which are preoccupied with Hobbes's psychology of human motivation, even among game theorists whose individualist assumptions obscure Hume's and Rousseau's points about our fundamental mutual interdependence and our relevant range of interests and motivations. Anglophone discussion of Hobbes has much to learn from Ludwig (1998).
4. Very briefly, Locke's claim that in the state of nature we have a right to punish violations of the law of nature is confused within the terms of his own analysis, sufficiently so to discredit his claims to know any of his alleged laws of nature; see Westphal (2016a: §45).
5. Translations from German have been slightly revised without notice.
6. "This much is certain, that if it were feasible that children should witness no acts of veneration towards the highest being, never even hear the name of God, it might be the proper order of things to guide them first to the ends and to that which benefits the human being, to sharpen their power of judgment, to instruct them in the order and beauty of the works of nature, then to add a wider knowledge of the structure of the universe, and only then to reveal to them the concept of a highest being, a lawgiver" (*Päd.* 9:493).
7. *General Observations on the Drives of Animals, Mainly on their Drives to Artifice*. Reimerus's book is cited in full in all its three editions (1760, 1762, 1773) by Johann August Eberhard in his *Vorbereitungen zur natürlichen Theologie (Pro-paedeutic to Natural Theology*, 1781, §39), which Kant owned and used when

- lecturing on metaphysics; it is included in Kant's *Gesammelte Schriften* among the reference works for Kant's *Reflexionen* on metaphysics (GS 18:491–606).
8. Not included in the Cambridge translations of Kant's works.
 9. The term "*Kunsttrieb*" also appears in the German translation of Cuvier (1821: 83, 273). The term remained in use because the issue it designates remained live.
 10. Frankena (1965), a rare and significant study, misses both Aristotle's and Kant's most fundamental reasons for why and how education is constitutive for our *being* – or rather: becoming – human beings at all, in part because in connection with Aristotle's view of our being political animals he only recognizes Aristotle's notion of human sociability (Frankena 1965: 61).
 11. Kant's preparatory drafts regarding the relations of justice and virtue are illuminating; a generous selection of them is included in Kant (2016). Also see Geismann (2006); Ludwig (2013); Schadow (2013).
 12. The present findings augment those developed in Westphal (2016b).
 13. On Hegel's integration of Aristotle's *De anima* and Kant's cognitive psychology, see Westphal (2019).
 14. Broad (1930: 207) states: "We must remember, however, that *purely* deontological and *purely* teleological theories are rather ideal limits than real existents. Most actual theories are mixed, some being predominantly deontological and others predominantly teleological."
 15. The quoted sentence, "Schools, in this picture. . .," is preceded by this statement: "Upbringing' of course imparts abilities and dispositions that transcend immediate usefulness, but it still functions as part of a process in which childhood is preparation for civic life, and civic life is itself the school of freedom (Hardimon 1994: 169)" (Dum and Guay 2017: 300); whence their apposition of "civic life" to work – neglecting that Hegel's account of "civic life" includes the public sphere and its public schools and public reasoning!
 16. I first learned of Thaulow's collections from Harris (1972). Harris' monumental contributions to our understanding of Hegel's philosophy (also his 1984, 1997) are conspicuously absent from recent "scholarship." A decade in advance, Dum and Guay's critique had been countered by Büttner (2006), and further in advance by Bourgeois (1978). *This* is the current state of what passes for professional scholarship, including refereeing for publication – in an article discussing philosophy of education! Competent refereeing would have identified these deficits and spared Dum and Guay, the *Hegel Bulletin*, and their readers these embarrassments. We really must reallocate the funds and efforts now poured into the translation industry, putting it back into teaching languages, *and* basic library research skills!
 17. Significantly, John Adams owned Plato's *Nomoi*, in the 1590 printing of Ficino's edition of Plato's works (Greek + Latin), which passed to his son, John Quincy Adams. (Adams senior [1735–1826] was a delegate to the Constitutional Convention, the first Vice-President and then the second President of the USA; Adams junior [1767–1848] was a diplomat and later the sixth US President. They wrote no marginalia in Plato's *Nomoi*.)
 18. Cf. *Rph* §§137+R, 140R, 141, 152, 213Z, 227+Z, 309Z.

References

- Aristotle (1831). *Aristoteles [Operae] Graece*, 3 vols, ed. I. Bekker. Berlin: Reimer.
- . (1995). *The Complete Works of Aristotle*, revised Oxford translation, 2 vols., ed. J. Barnes. Princeton: Princeton University Press/Bollingen.
- . (1998). *Politics*, ed. and trans. C.D.C. Reeve. Indianapolis, IN: Hackett.

- Bacin, S. (2013). The Perfect Duty to Oneself Merely as a Moral Being (*TL* 6:428–437), in A. Trampota, O. Sensen and J. Timmermann (eds.) *Kant's "Tugendlehre": A Comprehensive Commentary*. Berlin: deGruyter, 245–268.
- Bourgeois, B. (ed.) (1978). *Hegel: Textes pédagogiques*, présentation et traduction. Paris: Vrin.
- Broad, C.D. (1930). *Five Types of Ethical Theory*. London: Routledge & Kegan Paul.
- Büttner, S. (2006). Hegels Bildungstheorie dargestellt anhand seiner Nürnberger Gymnasialreden nebst einer Reflexion auf die Situation der Bildung in der heutigen Weltgesellschaft, in K. Kempster and P. Meusburger (eds.) *Bildung und Wissensgesellschaft (Heidelberger Jahrbücher 49)*. Berlin: Springer, 59–82.
- Curren, R. (2000). *Aristotle on the Necessity of Public Education*. Lanham, MD: Rowman & Littlefield.
- . (2010). Aristotle's Educational Politics and the Aristotelian Renaissance in Philosophy of Education. *Oxford Review of Education* 36(5): 543–559.
- Denis, L. (2013). Virtue and its Ends (*TL* 6:394–398), in A. Trampota, O. Sensen and J. Timmermann (eds.) *Kant's "Tugendlehre": A Comprehensive Commentary*. Berlin: deGruyter, 159–181.
- Dörflinger, B. (2013). Ethische Methodenlehre: Didaktik und Asketik (*TL* 6:477–485), in A. Trampota, O. Sensen and J. Timmermann (eds.) *Kant's "Tugendlehre": A Comprehensive Commentary*. Berlin: deGruyter, 383–410.
- Dum, J. and R. Guay (2017). Hegel and Honneth's Theoretical Deficit: Education, Social Freedom and the Institutions of Modern Life. *Hegel Bulletin* 38(2): 293–317.
- Ferguson, A. (1767). *An Essay on the History of Civil Society*. London: Cadell; Edinburgh: Creech and Bell; 2nd cor. edn., 1768; 5th edn. 1782.
- . (1768). *Versuch über die Geschichte der bürgerlichen Gesellschaft*. Leipzig: Junius.
- Frankena, W. (1965). *Three Historical Philosophies of Education: Aristotle, Kant, Dewey*. Chicago: Scott, Foresman & Co.
- Geismann, G. (2006). Recht und Moral in der Philosophie Kants. *Jahrbuch für Recht und Ethik / Annual Review of Law and Ethics* 14: 3–124.
- Green, T. (1999). *Voices: The Educational Formation of Conscience*. Notre Dame, IN: University of Notre Dame Press.
- Greenberg, K. and J. Dratel (2005). *The Torture Papers: The Road to Abu Ghraib*. New York: Cambridge University Press.
- Grossman, L. (2009). *Brownshirt Princess: A Study of the "Nazi Conscience"*. Cambridge: Open Book.
- Harris, H.S. (1972). *Hegel's Development. Towards the Sunlight*. Oxford: Clarendon Press.
- . (1984). *Hegel's Development. Night Thoughts: Jena 1801–1806*. Oxford: Clarendon Press.
- . (1997). *Hegel's Ladder*, 2 vols. Indianapolis, IN: Hackett.
- Hegel, G.W.F. (1821). *Grundlinien der Philosophie des Rechts oder Naturrecht und Staatswissenschaft im Grundrisse*. Berlin: Nicolai; abbreviated "*Rph.*" rpt. in: *GW* 14; cited by main sections (§), by Hegel's published Remarks: (§nR), or by editorial additions from his lectures (*Zusätze*): (§nZ).
- . (1853–54). *Hegel's Ansichten über Erziehung und Unterricht*, 3 vols., ed. G. Thaulow. Kiel: Akademische Buchhandlung.

- . (1970). *Werke in 20 Bänden*, eds. E. Moldenhauer and K.M. Michel. Frankfurt a.M.: Suhrkamp; cited as “MM” by vol.:page numbers.
- . (1986–). *Gesammelte Werke*, 21 vols. Deutsche Forschungsgemeinschaft, mit der Hegel-Kommission der Rheinisch-Westfälischen Akademie der Wissenschaften und dem Hegel-Archiv der Ruhr-Universität Bochum. Hamburg: Meiner; cited as “GW,” individual works are cited by the initials of their original titles plus vol.:page numbers of this edition.
- . (2002). Report on Teaching Philosophy at the Gymnasium, trans. S. Schütz, in J. Stewart (ed.) *Miscellaneous Writings of G.W.F. Hegel*. Evanston, IL: Northwestern University Press, 323–331.
- . (2006a). *Hegels Werk im Kontext*, ed. K. Worm. Berlin: InfoSoftWare; cited by vol.:page of MM.
- . (2006b). *Lectures on the History of Philosophy 1825–26*, 3 vols., ed. R.F. Brown, trans. R.F. Brown and J.M. Stewart, with H.S. Harris. Oxford: Clarendon Press.
- Herman, B. (2007). *Moral Literacy*. Cambridge, MA: Harvard University Press.
- Hume, D. (1739–40). *A Treatise of Human Nature*, London; critical edn., eds. D.F. Norton and M.J. Norton. Oxford: Oxford University Press, 2000; cited as ‘T’, by Bk.Part.§.¶ numbers (‘¶’: paragraph).
- Jhering, R. von (1904). *Law in Daily Life: A collection of legal questions connected with the ordinary events of everyday life.*, ed. and trans. H. Goudy. Oxford: Clarendon Press.
- Kant, I. (1902–). *Kants Gesammelte Schriften*. Königlich Preussische, now Berlin-Brandenburgische Akademie der Wissenschaften. Berlin: Reimer, now deGruyter.
- . (1924). Anthropologie “Dohna-Wundlacken, Graf zu” (1791/92). *Anthropologia docente Profess. Kant*, in A. Kowalewski (ed.) *Die philosophischen Hauptvorlesungen Immanuel Kants*. Nach den aufgefundenen Kollegheften des Grafen Heinrich zu Dohna-Wundlacken. München and Leipzig: Rösl, 67–373; rpt. GS 25:1535–51, and in Kant (2009).
- . (1995–2016). *The Cambridge Edition of the Works of Immanuel Kant in Translation*, 16 vols., eds.-in-chief P. Guyer and A.W. Wood. Cambridge: Cambridge University Press.
- . (1996). *Practical Philosophy*, ed. and trans. M.J. Gregor. Cambridge: Cambridge University Press.
- . (2009). *Kant im Kontext III: Kompletausgabe*, ed. K. Worm. Berlin: InfoSoftWare.
- . (2016). *Lectures and Drafts on Political Philosophy*, ed. F. Rauscher, trans. F. Rauscher and K.R. Westphal. Cambridge: Cambridge University Press.
- Koonz, C. (2003). *The Nazi Conscience*. Cambridge, MA: Harvard University Press.
- Lankford, A. (2009). Promoting Aggression and Violence at Abu Ghraib: The U.S. Military’s Transformation of Ordinary People into Torturers. *Aggression and Violent Behavior* 14(5): 388–395.
- LeBar, M. and M. Slote (2016). Justice as a Virtue, in *The Stanford Encyclopedia of Philosophy* (Spring 2016 Edition), ed. E.N. Zalta. URL = <<http://plato.stanford.edu/archives/spr2016/entries/justice-virtue/>>.
- Ludwig, B. (1998). *Die Wiederentdeckung des Epikurischen Naturrechts: Zu Thomas Hobbes’ philosophischer Entwicklung von De Cive zum Leviathan im Pariser Exil 1640–1651*. Frankfurt a.M.: Klostermann.

- . (2013). Die Einteilungen der *Metaphysik der Sitten* im Allgemeinen und die der *Tugendlehre* im Besonderen (MS 6:218–221 und RL 6:239–242 und TL 6:388–394, 410–413), in A. Trampota, O. Sensen and J. Timmermann (eds.) *Kant's "Tugendlehre": A Comprehensive Commentary*. Berlin: deGruyter, 59–84.
- Luqueer, F.L. (1896). *Hegel as Educator*. New York: Macmillan.
- Miles, S. (2004). Abu Ghraib: Its Legacy for Military Medicine. *The Lancet* 364 (9435): 725–729.
- Mill, J.S. (1861). *Utilitarianism*. CW10: 205–259.
- . (1963–1991). *Collected Works of John Stuart Mill*, 33 vols., ed.-in-chief J.M. Robson. Toronto: University of Toronto Press; London: Routledge & Kegan Paul; cited as "CW." URL = <<http://oll.libertyfund.org/title/165>>.
- Montesquieu, C.S. and Baron de (1748). *De l'esprit des lois*. Geneva: Barrillot; 2nd rev. edn. Geneva: Philibert, 1764; critical edn. in: *Œuvres complètes de Montesquieu*. Lyon: Société Montesquieu, 2016, vols. 5 and 6.
- O'Neill, O. (2003). Constructivism in Rawls and Kant, in S. Freeman (ed.) *The Cambridge Companion to Rawls*. Cambridge: Cambridge University Press, 347–367.
- Plant, R. (1977). Hegel and Political Economy, 2 parts. *New Left Review* 103: 79–92, 104: 103–113.
- Plato (1578). *Platonis opera quae extant omnia*, 3 vols., ed. H. Setphanus. Paris.
- . (1975). *The Laws*, trans. T. Saunders. New York: Penguin.
- . (1997). *Complete Works*, ed. J. Cooper. Indianapolis, IN: Hackett.
- Reeve, C.D.C. (1998). Introduction, in Aristotle, *Politics*, trans. C.D.C. Reeve. Indianapolis, IN: Hackett, xvii–lxxix.
- Rosenkranz, K. (1848). *Die Pädagogik als System. Ein Grundriß*. Königsberg: Gebrüder Bornträger.
- . (1872). *Pedagogics as a System*, trans. A. Brackett. St. Louis, MO: R.P. Studley Co.
- . (1878). *The Science of Education*, paraphrased by A. Brackett. St. Louis, MO: G.I. Jones.
- . (1892). *The Philosophy of Education*, 2nd rev. edn., trans. A. Brackett. New York: Appleton.
- Rousseau, J.J. (1762). *Du Contrat Social*. Amsterdam: Marc Michel Rey.
- . (1976). *Du contract social*, in B. Gagnebin and M. Raymond (eds.), with F. Bouchardy et al., *Œuvres complètes*. Paris: Gallimard (Pléiade), 3: 347–470.
- . (1994). *The Social Contract*, in *Social Contract, Discourse on the Virtue Most Necessary for a Hero, Political Fragments, and Geneva Manuscript*, trans. J.R. Bush, R.D. Masters and C. Kelly, in R.D. Masters (ed.) *Collected Writings of Rousseau*. Hanover, NH: Dartmouth College Press, 4: 129–224.
- Sarracino, C. and K.M. Scott (2008). *The Porning of America: The Rise of Porn Culture, What It Means, and Where We Go from Here*. Boston: Beacon Press.
- Schadow, S. (2013). Recht und Ethik in Kants *Metaphysik der Sitten* (MS 6:218–221 und TL 6:390f.), in A. Trampota, O. Sensen and J. Timmermann (eds.) *Kant's "Tugendlehre": A Comprehensive Commentary*. Berlin: deGruyter, 85–111.
- Sidgwick, H. (1898). *Practical Ethics: A Collection of Addresses and Essays*. London: Swan Sonnenschein; rpt. 1909.
- . (1904). *Miscellaneous Essays and Addresses*, eds. E.M. Sidgwick and A. Sidgwick. London: Macmillan.

- Stout, L. (2011). *Cultivating Conscience: How Good Laws make Good People*. Princeton: Princeton University Press.
- Timmermann, J. (2013). Duties to Oneself as Such (*TL* 6:417–420), in A. Trampota, O. Sensen and J. Timmermann (eds.) *Kant's "Tugendlehre": A Comprehensive Commentary*. Berlin: deGruyter, 207–219.
- Trampota, A. (2013). The Concept and Necessity of an End in Ethics, in A. Trampota, O. Sensen and J. Timmermann (eds.) *Kant's "Tugendlehre": A Comprehensive Commentary*. Berlin: deGruyter, 139–157.
- Westphal, K.R. (2016a). *How Hume and Kant Reconstruct Natural Law: Justifying Strict Objectivity without Debating Moral Realism*. Oxford: Clarendon Press.
- . (2016b). Back to the 3 R's: Rights, Responsibilities and Reasoning. *SATS – Northern European Journal of Philosophy* 17(1): 21–60.
- . (2018). *Grounds of Pragmatic Realism: Hegel's Internal Critique and Transformation of Kant's Critical Philosophy*. Leiden: Brill.
- . (2019). Hegel's Critique of Theoretical Spirit: Kant's Functionalist Cognitive Psychology in Context, in M.F. Bykova (ed.) *Hegel's Philosophy of Spirit: A Critical Guide*. Cambridge: Cambridge University Press, 57–80.
- . (2020a). *Hegel's Civic Republicanism: Integrating Natural Law with Kant's Moral Constructivism*. London: Routledge.
- . (2020b). Kant's Analytic of Principles, in M. Timmons and S. Baiausu (eds.) *Kant*. London: Routledge, 254–273.

8 Finding by Making

The Mediating Role of Social Constructions, Commitments, and Resonance in Hegelian Normative Realism

Arto Laitinen

Constructivism is a possible position on many issues: on the construction of agency, on the justification (and “methods of justification”) of norms and normative views, but also on normative truths. This chapter concerns normative truths. It explores the relationship of in some sense objective normative truths with historical social formations and temporally located acts of will and experiences.

Rawls’s influential lectures “Kantian Constructivism in Moral Theory” (Rawls 1980) brought constructivism to ethical and metaethical debates, especially in the Kantian variant. Recently also, for example, Humean, Aristotelian, and society-based constructivisms have been formulated.¹ Hegel has not figured very centrally in the broader debates on ethical constructivism and realism, but among Hegel scholars, the issue has received some attention. There is no discussion of Hegel, for example, in Bagnoli (2013) or Lenman and Shemmer (2012). In addition to Stern (2007, 2011, 2012), and the representatives of the “standard story” of the relationship between Kantian and Hegelian constructivism (Pinkard 2002; Pippin 2005, 2007, 2008; Brandom 2002), constructivism has been discussed, for example, by Westphal (2007, 2010, 2013), Laitinen (2016), and Ostritsch (2014).² In this chapter I develop further a view which, while not ultimately remaining a constructivist view, sees social constructions as playing a vital role in ethical theory.

Section one starts by defining realism and constructivism with the help of the Euthyphro question and discusses the challenges and problems that constructivisms face. These problems motivate a move to examining a view which “sublates” such constructivisms and leaves these problems behind. Section two then provides an account of Hegelian “mediated realism” or “sublated constructivism,” which is a view I have defended elsewhere (Laitinen 2016). This view escapes the problems of constructivism by denying that social constructions are infallible definitions of morality. Social constructions, and historical and social *Sittlichkeit*, are superior to ahistorical and individualist *Moralität* in three ways: structurally, epistemically, and normatively. Section three discusses one important

mechanism of historical change in normative truths: within limits both personal and collective commitments alter the normative landscape. Some moral contents are obligatory or forbidden even in the absence of commitments, but some contents are “committables”: autonomous commitments make a difference to their role in ethical life. This raises the follow-up question of the division of labor of ethical contents, individual autonomy, and collective autonomy. Section four discusses more tentatively a related mechanism, which instead of autonomous will or commitments is a matter of authentic experiences and personal resonance: both personal and collective resonance (i.e., strong experiential appeal or “pull” of specific ideals or felt “push” of specific faults) can arguably make a difference to the normative landscape. This in turn raises the follow-up question of a division of labor of ethical contents, personal resonance, and collective resonance. Thus, the latter two sections amount to an examination of objective contents and two notions whose function is somehow subjective or personal and seemingly at odds with objective normativity: autonomous commitments and authentic identifications.

1. Constructivism

1.1. *The Euthyphro Question and Infallibility*

Constructivism and (non-constructivist) realism are defined here in terms of the Euthyphro question. Both agree that there are normative truths, but they differ on how these truths are fixed (Shafer-Landau 2003).³ In its general form, the Euthyphro question asks whether something is good, right, or obligatory because some X judges it to be so, or whether the X judges it to be so because it is good, right, or obligatory. The X can be God, as in divine command theory; or the X can be a suitably defined moral subject, as in Kantian constructivism; or the X can be the society or collectivity, as in Hegelian social constructivism. As I use the terms, a theory is a form of *constructivism* if it takes some such X to be the constitutive source of goodness, rightness, reasons, and obligations, and it is a form of *realism* if it needs no such X.⁴ My argument that we should “sublate” constructivism is that any constructivism, *so defined*, must thereby make the X *de jure* *infallible* or *incorrigible*, whether it likes it or not.⁵ In cases of *de jure* infallibility, what X judges is thereby the normative truth – there is no room for X to make a mistake (or otherwise it is *not* the constitutive source of truth).⁶ Holding a party *de jure* infallible, a constitutive source on a realm, may be fine where we have reasons to hold the party *de facto* infallible. Gods, when exercising their divine epistemic powers in some realm where correct answers pre-exist, may well be regarded as *de facto* capable of getting things always right. But *prima facie* it is way too optimistic to hold ordinary agents (individual humans or societies) *de facto* infallible: capable of making only correct judgments.

For that reason, it is better to find a theory which does not make individuals or communities *de jure* infallible or incorrigible either.⁷ A divine command theory may be happy to postulate a divine constitutive source and regard it as infallible, but taking human sources to be infallible is a considerably less palatable postulate in philosophical anthropology.

1.2. Problems for Constructivism

In this subsection, I will examine further problems for various constructivists. These problems motivate the move towards the Hegelian view I defend. The point of constructivism is to show that moral (or normative) contents are made, not found: normative construction takes place in a normative vacuum – any normative restriction or guidance can only be the result of prior constructions. The challenge is to make this work (normatively, conceptually, and metaphysically) without presupposing moral (or normative) contents in some form, and preferably without making unpalatable anthropological assumptions concerning the infallibility of humans.

- (i) One problem for constructivism is *the explanatory gap* between the nonmoral or descriptive input and the moral or normative output. How is it possible to bridge the gap between the desired kind of output and the desired kind of input?

One way to go is to explicitly presuppose a bridge principle of the sort “if D then M” in the method of construction. In the case of moral constructivism that would be to appeal to an explicitly moralized method of construction, which might violate a ban on moral contents in the method (see later – ii).

Another way for constructivism to bridge the gap is by an appeal to the powers of some thinking judge to form thoughts of the right kind, and then show how these thoughts can bring about the relevant reality, either via speech acts such as declarations, or “thought acts” such as collective acceptance, or other suitable forms of responses (see Searle 1995; Johnston 1989; Kantian universalizable rational willing is discussed later, as it is less straightforward). The mechanism generates outputs of the right form (institutional, legal, normative, moral) from inputs of the right form (pre-institutional, pre-legal, nonnormative, nonmoral).⁸ Normativity, morality, institutions, or laws exist in an otherwise neutral world, because the relevant constructor has construed them.

The mechanism is perhaps most familiar from debates on the social ontology of institutional facts: if it is collectively accepted in a community that squirrel pelts are money, then squirrel pelts are money in that community (see Searle 1995; Tuomela 2011; Hindriks 2019; Ásta 2018 for different versions). If it is legislated that it is against the law to drive

on the right-hand side, then it is against the law to drive on the right-hand side.

A similar mechanism for moral constructivism could perhaps then bridge the gap between descriptive starting points and moral outcomes: if it is collectively accepted that “it is wrong to lie,” then it is wrong to lie? There is a problem, however. It is indeed metaphysically plausible that from representations (by ordinary, non-idealized cognizers) of the suitable form, a reality of the suitable form can emerge. But those social realities can be criticized for being far from ideal, having defects, or falling short of various desiderata, including moral ones. Such non-ideal constructivism (with real, empirical processes of “construction”) is a good view about how *non-ideal* social reality is constructed. Social reality is not incorrigible or without defects: it can in principle be improved.⁹

For that reason, direct social constructivism (despite bridging the explanatory gap between descriptive and normative contents) seems a hopeless view as a final view on what moral, ethical, or normative demands are. Progress is at least conceivable concerning social realities and socially accepted principles. Indeed, non-ideal social constructions are more or less guaranteed *not* to bring about right (ideal), incorrigible results: there is always room for improvement in what has been empirically constructed. (See, however, Section Three on how this very aspect of historical social constructions can be put to productive use in a Hegelian view).

- (ii) What about *moralized* methods of construction, then, which are another way to bridge the gap between the descriptive and the moral? A method of moral construction is moralized if it includes moral notions, and not moralized otherwise. (Similarly, a method of normative construction is normativized if it includes normative notions, and not normativized if it does not, etc.).

Any general moral principle can be interpreted as a moralized method of constructing token moral truths or facts. It is moralized if it explicitly links descriptive (morally significant) inputs with moral outputs. The form of a moral principle is: if action A has the descriptive feature D, then action A has the moral feature M. For example, “*If* the act A causes unnecessary suffering, *then* it is morally impermissible.” The morally significant descriptive fact can then be “The token act causes unnecessary suffering,” and the token moral truth or fact that follows is “The token act is morally impermissible.” The principle, together with the morally significant fact, entails the moral fact. It does not violate the “no ought from is” (or no moral facts from merely descriptive facts) dictum because the moral contents of the conclusion can be deduced from the premises.

A moral theory consisting of such principles is credibly objectivist and it has resources to avoid positing the existence of pre-given token

moral truths “out there” (which constructivists often want to avoid). The token moral truths are only *constructed* with the help of a descriptive, morally relevant input (suffering) and a bridge principle (if suffering, then impermissible). Such a moralized method obviously presupposes a chunk of morality (the substantive moral principles as construction methods) and explains the rest (token moral facts) only with the help of the presupposed chunk. Thus, it does not successfully explain all morality. The moral principles (as “methods”) would on this story be found, not constructed, which is an important concession.

What should we make of such views? These views would be realist about substantive moral principles. Having accepted *that* form of moral realism, it would be hard to think of any motivation for wanting to add a complex story about how the correct outcomes of the principles applied to concrete situations are not found but merely objectively correctly constructed (e.g., by some moral judge thinking through the principle). In fact, as the moral principle is a closed method of construction (see iii later), it is unclear whether the token moral truths need to be constructed by a judge either.

So while this method is guaranteed to work (and avoid the problems of standard social constructivism), it is not really distinguishable from realism about token moral truths, and to the extent it is distinguishable, it lacks clear motivation as it has the same theoretical costs as simple realism.¹⁰ It is therefore understandable that constructivisms typically try to observe a *ban on moralized methods*.

One may wonder, however, for conceptual reasons, if a nonmoralized method for constructing morality can exist even in principle. Does not the procedure that has descriptive facts as inputs, and moral facts as outputs, thereby count as an implicit moral principle, linking descriptive to moral facts? That is, can the ban on moralized methods be followed through even in principle?¹¹ That is the hope of constructivisms, and such mechanisms as collective acceptance or declarations seem to be cases in point.¹² Here, the distinction between open and closed methods becomes relevant (the conceptual worry of the procedure being a moral principle concerns especially closed methods).

- (iii) A set of instructions is closed when the same input should, via the same steps, lead to the same outcome at each round of applying the instructions. Ordinary cooking or baking recipes aim at this kind of uniformity. Differences in the end result must depend either on the ingredients used or how the instructions were followed.

A set of instructions is open when the result is not expected to be the same at each round, but is differently formed or shaped during the process. For example, debates or votes are open-ended decision procedures: if you give everyone a chance to provide input, and give everyone a

chance to weigh reasons for or against, and then decide by majority vote, there is no assumption that this will lead to the same outcomes each time under normal conditions.

The moral principles discussed earlier are “closed” methods in this sense. Constructivisms with closed methods encounter a further problem that can be called the *ontological idleness of closed methods of construction*. If a method is closed, it is unclear whether any “run” of the method will produce anything that does not already exist. Of course, when baking a cake or building a house it is easy to see that something new comes into existence. But when constructing truths or facts, or correct answers to moral questions, this is less clear. In some sense the answers are already there, when the method is a closed method, just like in mathematics. Someone calculating the result on the basis of a preexisting rule does not really “create” the result in any ontologically significant sense: the correct answer does not turn from not existing to existing. Closed methods seem to make actually running the procedures idle: the token truths and correct answers seem to exist as soon as the method for fixing them exists. Truths are in that sense unlike cakes or buildings. Closed methods rob constructivism of any real ontological significance, and seem to end up being realisms (about token answers) in disguise.

- (iv) By contrast, in open-ended methods like debates or votes (or other decision procedures) the outcome will depend on how things go during the specific running of the method. That gives a real sense to something being constructed. But open methods have their own baggage (it was pointed out earlier that social constructivist views cannot account for progress, for example). One kind of baggage is related to the dangers of ethnocentrism and relativism. For any normative or moral constructivism, the constitutive source X is *either the same as or different from* the (group or individual) agent A who is subject to the constructed norm or principle. If the agent A is different, a problem of heteronomy or subordination emerges. Take, for example, an ethnocentric view that all other groups must follow *our* normative legislation, because we are the constitutive source of all normativity. That view is clearly disrespectful of other groups.

A relativistic view is an improvement, in that it holds that each agent (group or individual) is a constitutive source of its own normative truths. Unconstrained relativisms lead, however, to the well-known problem that anything goes, and even constrained realisms will have residual problems of arbitrariness. Relativism can also contain residual problems of ethnocentrism (what to say about ethnocentric communities that are disrespectful of others?). Group relativisms also have further problems of multiple group memberships, suppression of minorities, and so on.

These problems make *universalistic, objectivistic* forms of constructivism appealing. On these views, all agents take part in the procedures of construction, and the resulting constructions apply to all. A way to make universalistic, objectivistic forms of constructivism work, however, is to make them closed methods, inheriting the problems described earlier. It is because there are correct procedures to follow that each and every constructor ends up with the same results. But then the actual procedures become idle, and the token truths for me are fixed already by the method, not by me actually doing any construction. Truths are found, not made. That is unproblematic for defenders of realism, but it is the result that constructivism set out to avoid.

- (v) What may seem more promising, in the absence of closed moral principles (where the result is the same independently of who it is that applies the principles for a given input of the right format) is the appeal to ideal judges. The appeal to idealized judges may be well placed to alleviate the moral worry of arbitrariness, but a metaphysical worry may remain. On a charitable reading, ideal judges (like non-ideal ones) can bridge the explanatory gap because they are thinkers who can first formulate the relevant thoughts and then bring about the relevant realities with the help of these thoughts. Suppose further, for the sake of argument, that they can avoid closed, moralized methods, and nonetheless end up with acceptably ideal moral contents from merely descriptive materials, without thereby implicitly following moral translation rules (i.e., moral principles bridging descriptive input with moral materials).

A specific ontological puzzle arises, however, for ideal constructors: in what sense can something idealized construct or produce anything? If it is ideal, and not real, how can it have any powers to create or bring about anything?¹³ The problem with whatever idealized judges would do is that the results are not action-guiding for normal, empirical people, unless these results exist as something that people can find out about. But how can there be, metaphysically speaking, anything to find out if the constructor is a mere idealization? This is the puzzle with ideal judges – how can they bring about the ontological transition from a universe where there are no normative truths to a universe where there are normative truths, if they (unlike their non-idealized counterparts) do not exist?

- (vi) So, all in all, it will remain very challenging to solve the metaphysical challenges (the gap between descriptive and normative; the presumed work done by closed methods or ideal agents), as well as the conceptual challenge (will the closed principles bridging the descriptive and normative turn out to already be normative principles?), the normative challenge (will the constructions be arbitrary,

relativistic, or ethnocentric?), or the anthropological challenge (will it require human judges to be infallible?). Let us now turn to an approach which avoids these problems by sublating constructivism.

2. Mediated Realism or Sublated Constructivism

At this stage we can turn to discussing another approach to social constructions which also sees their failures as significant. Because this approach does not regard constructions as ultimate criteria, this view does not face the problems discussed in the previous section.

The key idea is to admit that social constructions are *not* incorrigible but have defects. The defects of social constructions that we live with are more tangible and accessible than mere thought-contents. The defects can be experienced as defects by those whose everyday lives the social constructions touch. Their defects *are* defects independently of anyone construing them as such, so in that sense the defects are *found* or experienced or encountered by humans. But the defects are defects of constructed realities, which are of course *made* by humans. The view thus retains the relevance of such human-made constructions, but in a sublated form. Sublation (*Aufhebung*) is Hegel's term for at the same time denying that something can stand on its own and preserving it as an aspect of a larger reality.

The view that I call "sublated constructivism" or "mediated realism" (i) does not regard social constructions (or personal constructions in self-legislation) as ultimate criteria of rightness, wrongness, obligatoriness, reasons, or value, but sees social constructions as (ii) structurally required, (iii) epistemically relevant, and (iv) making a normative difference. This view preserves a "Kantian" moment of the dignity of persons as a structural feature of modern *Sittlichkeit* but stresses the fallibility of both moral agents and social formations (see Laitinen 2016).

(i)

According to Kantian constructivism, for a moral agent to be an autonomous moral legislator, he or she cannot rely in his or her moral lawgiving on any objectively valid moral contents of the moral realist type. Being autonomous entails being a moral "author," having "authority" over moral contents, and so being the ultimate moral constructor or creator, not unlike God in Divine Command theory (Kant 1996a, 1996b; Rawls 1980; Stern 2011; Laitinen 2016). This threatens to create the so-called Kantian paradox (the Socratic Euthyphro dilemma as applied to Kantian self-legislation, see Pinkard 2002) of threatening to make moral lawgiving either "arbitrary self-launching" (Regan 2002), in the absence of independent reasons to give this law rather than that, or presupposing

moral realism after all. It threatens to be either “frictionless spinning in the void” (McDowell 1994) or a form of realism (see Larmore 2003).

The proponents of what Robert Stern calls the “standard story” (e.g., Pippin 2008; Pinkard 2002; Brandom 2002) see Hegel as attempting to solve this Kantian paradox by socializing Kant: by making the community of subjects, structured by mutual recognition, the legitimate lawgiver. No reference to any objectively valid moral contents of the moral realist type is made. The relevant X is the collective, and each individual is a “coauthor” of the relevant values, norms, reasons, principles, and obligations (see, e.g., Ikäheimo 2011). In comparison to “arbitrary self-launching,” this does indeed introduce some rational friction, but it has not persuaded critics (such as McDowell 1994) who think this merely amounts to a *collective* form of “frictionless spinning in the void.”

It also makes the collective infallible. Constructivism, as defined earlier, makes the X a *de jure infallible* or *incorrigible* source of value, normativity, and deontic features. For something to be mistaken, there must be some criterion according to which it can be mistaken. In the constructivist view, there isn’t. (Whatever the constructivist view deems fallible is not thereby the relevant X). If one prefers to preserve the fallibility of communities or collectives, one may move to some form of realism. The form of realism that also preserves many roles for social constructions can be called “mediated realism” or “sublated constructivism.”

On this view, forms of life come in different fallible historical variants to be judged by objective criteria of progress (especially the degree to which they actualize freedom). Thus, a form of realism is presupposed. Historical contexts can be rationally compared and ranked, so that transition from A to B is progress, and transition from B to A is regression.

The idea is that various social formations (principles, norms, practices, shared value horizons) are needed to meet structural, epistemic, and normative functions, but there are also independent reasons to revise and criticize them as better or worse. One case of progress is arguably the Hegelian transition from premodern to modern *Sittlichkeit*, embodying the principles of subjectivity, conscience, and autonomy (Hegel 1991).

This view does not simply abstractly negate the need for social constructions or formations: they have a function, but they can be criticized for their features, and thus are to be “sublated.” On this model that “sublates constructivism,” there are historically received and self-legislated principles and norms, but there are also independent reasons to revise and improve such self-legislated principles (or standards concerning what kinds of changes are improvements). The reasons automatically supervene on the bad-making descriptive features, without any constitutive source conferring them – the normative layer is an aspect of the human reality. To the extent that the principles and norms have faults in them, there are good normative reasons to fix the faults. The faults of social formations bring these independent normative reasons to light.

(ii)

This view takes the central difference between Kantian and Hegelian ethical theories to be the *structural* superiority of *Sittlichkeit* over *Moralität*. Hegel was very much against the “evaporation” of actual life into abstract critical subjectivity.¹⁴ With the proviso that there are important issues of conscience, and that everyone should make their moral minds up autonomously rather than under the tutelage of others, it is better to have shared institutional structures, public norms, shared practices, and valuations, rather than everyone following their own consciences in absolutely all matters in the total absence of shared institutional structures, public norms, shared practices, and valuations.¹⁵ This is partly for functional reasons.¹⁶ The public, shared form of ethical life makes coordination possible in ways that reliance on everyone’s conscience does not: there is a structural need for shared, public ethical life. Further, it is a substantively *valuable* thing that one’s conscience and considered opinions on the one hand, and the prevailing norms on the other, coincide. It is a form of alienation when this is not so, and the value of “being at home” or *reconciliation with* the social world may be considerable (for Hegel [1991], it is a central element of freedom).

(iii)

The view is a *mediated* form of realism, critical of any *immediate* forms of realism. Immediate forms of realism take human beings to have the epistemic power to intuit moral truths from within any situation. The mediated form of realism holds that different historical formations disclose and make salient different normative truths. The crucial point is that social constructions are necessary in the world historical process of *trial and error*. It is mostly by *living* by the norms and conceptions of the good that their shortcomings can be detected. Armchair speculation or utopian imagination will not often be equally reliable. So the *constructed and lived frameworks* are necessary *epistemic* devices to reveal independent truths via *negation, defects, and shortcomings*. They are precisely not the authoritative source of truths.

So social constructions are necessary in a different way from what social constructivism would assume. Such constructions must be embedded in an independent moral reality, as a vehicle of disclosing such a reality. Social constructions disclose moral facts, almost paradoxically, by being saliently imperfect. The view emphasizes the epistemic and constitutive need for social processes of trial and error. Experienced sufferings and injustices, and felt misrecognitions, are the epistemic guide to what is objectively bad about the present social arrangements.¹⁷ We can detect the downsides of a social arrangement by living with them. Situated experience of participants (including suffering) provide (fallible)

evidence of which conceptions of standards, valuations, or norms really are better.

(iv)

This view historicizes normative truth in a distinct way.¹⁸ It does *not* take social constructions or shared practices as *an infallible constitutive source* of goodness, rightness, or obligation, like the standard story. Yet there is a kind of historicity built into the view: what is of value, reasonable, or right in one historical circumstance may not be so in another. For example, even though some things are revealed to be objectively good, reason-giving or obligating their *normative* relevance may nonetheless be blocked, disabled, or filtered out (Dancy 2000). This can happen in at least two ways. One kind of filter is epistemic: if these as such objectively good contents are not accessible to the participants in a form of life, they are disabled also normatively (Dancy 2000: 56–57). Another kind of filter concerns lack of proper preconditions: The *Zeitgeist* may not so to speak be ripe for them. Antigone's actions cannot necessarily be evaluated with post-Kantian truths, even though these would be truths. In *non-ideal* circumstances, some contents may be of great value, be reason-giving, and be right, which in *more ideal* circumstances are not (say, perhaps it may be permissible in some circumstances to own slaves, or perhaps the principles of autonomous self-determination or democratic collective self-rule require a certain level of education).

In the remaining sections of this chapter, two more mechanisms that lead to historical variability in normative truths will be explored. They are related to autonomous voluntary commitments, and the phenomenon of some contents appealing to some agents more strongly, with more resonance.

To sum up the view so far: structurally, epistemically, and normatively, there is crucial dependence of ethical truth on historical formations, but the existing social reality has genuinely good or bad features. That is why this view counts as realism in its answer to the Euthyphro question: it is realism concerning the good- and bad-making features, but there is great emphasis on the fact that we have no immediate access to them; we can evaluate them only in the context of actual, deficient forms of life and social formations.

Such mediated realism further avoids the metaphysical, normative, conceptual, and anthropological problems that different forms of constructivism face, even though it sees social constructions as relevant in a sublated form.

3. Autonomous Commitments and “Committable” Contents

A key difference in a Hegelian ethical theory between modern and pre-modern *Sittlichkeit* is the role of individual subjects in modern societies. This role has been well understood in the secondary literature concerning

the freedoms and rights of individuals – especially the interpretation of the three parts of the *Philosophy of Right* addressing three aspects of freedom: negative freedom protected by legal rights, moral freedom of self-determination, and social freedom of self-realization through social roles (see Hardimon 1994; Honneth 2014; Neuhauser 2000; Laitinen 2015). From the viewpoint of ethical theory, it is less clear what to think of the relationship of autonomous self-determination and ethical content. If the previous section gets things right, self-determination does not extend to full powers of legislating ethical contents. That would make subjects infallible. For the “sublated constructivist” view it is rather that historically situated exercises of autonomy will make a further difference in the normative landscape: they do not take place in a normative vacuum, but nonetheless they may alter the balance and shape of the normative considerations at stake.

This section tries to clarify how individual self-determination, collective self-determination, and normative truths could fit together in an ethical theory. (The next section will try to do the same for authenticity instead of autonomy: how individual authentic views, received ethical substances, and normative truths fit together). For simplicity, we can start from unmediated direct realism and see how autonomous commitments can be “stacked,” and how, as a result, an extra function of shared forms of life can be as a repository of past autonomous commitments. The result will be to add another feature (in addition to the structural, epistemic, and normative functions outlined earlier) to the necessity of personal and social constructions in an ethical theory of mediated realism. This section does not follow Hegel’s writing but is intended to add an element to the Hegelian approach.

3.1. *The Interplay of Autonomous Commitments and “Committable” Contents*

Let us take as one premise the platitude that moral agents have a moral power to make promises to others, commitments to self, and joint commitments together. Making a commitment has a psychological or motivational effect, but it also has an important normative effect: a commitment is capable of changing the balance of normative reasons (cf. Liebermann 1998). If you have a reason to do either of two things but you give your word that you will do one of them and not the other, the two options are no longer normatively on a par. Indeed, as a result, you may be obligated to do the one and doing the other may end up being forbidden, as that means not meeting your obligations).

But further, an ethical theory should preserve the phenomenon of ethical contents coming in three classes: some contents are *as such* obligatory, without any need for being “determined” to be so (e.g., via voluntary commitments or commands). Likewise, some forms are *as such*

impermissible, without any need for being “determined” to be so (e.g., via voluntary commitments or commands). Some ethical contents are, however, optional and what I would like to call “committables.” Concerning them, commitments make a difference. On their own, the ethical contents are optional or permissible, but autonomous commitments (both self-legislation and social commands) can turn them obligatory.

To appreciate how commitments function, it is thus relevant that moral and normative contents come in three forms: some contents are in themselves required (in the situation), some are optional, and some are forbidden (cf., e.g., Raz 1986). The optional goals are ones that one is permitted to pursue. Pursuing the optional goals does not necessarily or even typically turn the optional goals into required ones. But as autonomous agents have the power to commit themselves, to promise to others or to themselves, such commitments may “upgrade” the contents from merely optional to obligatory. Commitments make a difference only concerning committable goals: some contents are already obligatory, and some remain forbidden. The optional, committable aims can take the form of a “must” or a requirement once the agent has exercised the autonomous power to commit themselves.¹⁹

By contrast, commitment is not needed for some contents being already required, optional, or forbidden. There is, so to speak, no “transcendental” commitment or construction needed – and empirical commitments do not make a difference concerning the required and forbidden demands of morality. One ought not kill innocent people independently of whether one has committed to not doing so, or to doing so. Further, commitments to self, as well as promises, are void if the content is morally forbidden.

3.2. *Comparison to Stern’s Two-Step View*

I have elsewhere (Laitinen 2016) criticized the two-step story Robert Stern (2011) reads Kant and Hegel as presenting. First, Stern’s view misses the fact that some contents (in a situation) are as such already obligating or as such already forbidden. They are not in need of being commanded or otherwise determined. Secondly, concerning permissible contents, Stern’s view sees the command or commitment as merely fixing that normative standing as “permissible,” whereas I propose that what command or commitment does is “upgrade” the content that is as such permissible or optional into obligatory (when committed to).

Stern rereads Kant and Hegel in light of what he calls an “intermediate position” in the Medieval debate about Natural Law. The intermediate position is a kind of two-step story which holds that Natural Law does indeed determine what is intrinsically good and right, but a divine command is further needed to make it *obligatory* to do what is independently right; *obligatory* in the specific moral sense, in the binding, imperatival

character or guise. For these theorists, the relevant X is God, who is, however, also bound by Natural Law. For Kant, the X is an autonomous subject of self-legislation, and for Hegel it is the society. So instead of a divine command view, Kant holds a self-command view, and Hegel a social command view, on Stern's reading. There are different ways to understand this view, but I have argued that they fail for different reasons. The main problem is that *moral obligatoriness comes with moral wrongness and rightness* – it is the very *same* conceptual, deontic dimension of morality. At least on one reading of Stern's view, both suitable contents and a command by X are needed for an action to be either obligatory, permitted, or forbidden.

On the view that I am articulating in this section, many contents are obligatory or forbidden without *autonomous willing* being needed to make them so. Concerning them, a one-step story suffices to show they are obligatory or forbidden. And further, concerning the otherwise permitted, optional, or "committable" contents, what autonomous commitment brings about is an "upgrade" to being obligatory.

So within the realm of "committables," a two-step story works. It works in upgrading a content that already has a deontic standing to another deontic standing. It is not, like in Stern's proposal, that self-legislation or social command is needed for determining the deontic standing for some contents in the first place. But outside that realm, the limits of the authority of autonomy are encountered. If the contents are not "committable," the attempts to exercise autonomy on these contents fail. Some attempts are mere attempts; they remain normatively void. For example, attempts to sell stolen property: you cannot sell what is not yours. Typically, an agent A can only promise what agent A will do and – in the absence of some special arrangements or relations – not what B or C will do (they have the power to make their own promises). So everyone agrees there are normative limits and failed attempts to promise. The suggestion here is that the content of promises functions in that way as well.

3.3. The Division of Labor Between Personal and Collective Autonomy

Suppose, then, that the ethical contents come in three forms, and the middle form leaves room for commitments. The notion of personal autonomy is relevant for the liberty to commit oneself. At the societal or group level, there is an equally important notion of group autonomy for joint commitments. Both can take part in the interplay of given "committable" contents turning into obligations. So this story gives one more function to positive, historical forms of life: as exercises of collective autonomy or democracy, they turn something collectively optional into collectively obligating.

This raises the question, however, of how personal and collective autonomy fit together. They can arguably be made to fit together in an internally complex society which combines negative, reflective, and social freedom. This can be understood as a kind of division of labor: some issues are left at the individual's discretion, and some issues are to be decided together, collectively. As past decisions remain in force until decided again, the commitments may have a cumulative logic.

Note that the proper division of labor between personal and collective autonomy (and ipso facto personal and collective *responsibility*) is a substantive moral question. The historical processes of trial and error fit this question just like any other moral question. The theory outlined in Section 1 can take a step back and say that there are better and worse answers to these substantive questions and no individual or collective is an infallible judge concerning them.

A substantive view can hold, for example, that the basic institutional structure of society is to be devised collectively, but the choice of one's role within it is to be decided individually, as an exercise in personal autonomy. For Hegel, the choice of one's career and spouse are characteristic autonomous personal choices in a modern society. Note that making some choices collective rather than individual does not necessarily lessen one's autonomy: it is just that one takes part in collective autonomy regarding such an issue.

In this chapter, the focus is on a meta-question concerning the nature of the normativity involved: how can both autonomous decisions *and* ethical contents make a difference? The suggestion so far is that ethical contents seem to come in three forms: some are obligatory without commitment, some are optional but committable (and with a commitment can turn obligatory), and some are impermissible. The commitment can take an individual or collective form.

The shape of the social form of life, *Sittlichkeit*, can then be seen as a repository of such past collective commitments. Thus, social constructions do not merely have (i) structural, (ii) epistemic, and (iii) contextual normative functions (for providing the circumstance that codetermines whether something is appropriate in the situations). They also function as a repository of such past collective commitments and thereby change the normative landscape. If one wishes, this is another (or even the major) way in which the established *Sittlichkeit* has a normative function.

An established *Sittlichkeit* also gives shape to a division of labor, a distribution of responsibility between individual and collective issues. This can be seen as another aspect of the structural function that established *Sittlichkeit* has. For the distribution of rights (and at the same time, responsibilities) to decide something autonomously, one may think that at any historical stage there is always already some imperfect institutionalized understanding in force concerning which issues belong to individuals

and which to collectives but that given the fallibility of any institutional solutions, there is also room for improvement and criticism.

3.4. *Summing Up: Commitments and Normative Truth*

So all in all, both individual and collective commitments as exercises of individual and collective autonomy make a further difference to the normative standing of “committable” contents. The normative situation undergoes a change from before to after a commitment has been made. Once such commitments get further and further stacked, voluntary commitments give shape to an individual’s identity and societal *Sittlichkeit*.²⁰

This view is limited in not capturing the historicity of the obligatory or forbidden contents and in not addressing the epistemic functions that social constructions play in a historical process of trial and error, but within its limits, it adds a valuable insight. Autonomous commitments shape the normative standing of different contents. Individual commitments make a difference to individuals, and collective commitments make a difference to collectives and their individual members.

I will turn next to another less voluntarily controllable aspect, which nonetheless may have an analogous role for shaping individual and collective ethical life.

4. Authentic Identity-Formation and Non-Categorical “Identifiableness”

4.1. *Will Versus Personal Resonance*

It is readily normatively intelligible that voluntary exercise of one’s normative powers changes one’s normative landscape: commitments and promises are routinely taken to work precisely in that way. The premise of the previous section was relatively uncontroversial.

By contrast, mere beliefs do not make something true. It would be a bad case of bootstrapping if merely by believing that *p* one would create *p*. In this way, believing differs from perceiving or experiencing as grounds for belief: that one sees and feels that it is raining is a good reason to believe that it is raining. Appearances in general are *prima facie* reasons to reflectively endorse the content of the appearances in one’s beliefs, and there may be good explanations for certain appearances and mirages being systematically misleading. Appearances and normative “seemings,” then, seem epistemically relevant: we may end up judging that *p* because it experientially seems that *p*, and we have no special doubts concerning the kind of experience at stake. But such appearances that *p* do not make it the case that *p* any more than judgments that *p* do. So it seems that while voluntary commitments are a mechanism for changing normative truths, the same cannot be said about normative

beliefs, appearances, judgments, seemings, experiences: they are rather in the business of revealing or finding out what the truths are. (Indirectly they may play a part in the historicity of normativity by affecting what gets through an epistemic filter).

There seem, however, to be a specific kind of “seeming” or appearance that is indexed to a person, what Charles Taylor (1989: 509–13) calls “personal resonance” (see also Laitinen 2008: ch. 9). Certain kinds of art or activity appeal to one person and not to another. This ranges from rather trivial “liking” to a deep personal calling. Other things equal, there seem to be personal reasons for one to opt for a life that is in line with one’s calling, or in line with one’s dreams. Even when other things are not equal, one can intelligibly put aside otherwise good, meaningful, and secure lives to pursue a life that speaks to one more strongly.

While autonomy can be understood as an exercise of one’s *will* (in light of one’s practical reason), the principle of individual authenticity shifts the focus slightly to personal *resonance* – one’s lived experiences of “mineness” or feeling at home and not feeling alienated from one’s goals or practical activities. At a collective level, traditions can be understood as a form of collective authenticity – forms of what is “transmitted” in *our* way of life, our ethos, our cultural horizons, or *Sittlichkeit*. Analogously to personal resonance, or what appeals to an individual, we can think there is a phenomenon of collective resonance.

In different ways, the existence of such collective resonances is taken as a starting point by political parties aiming to link their programs to deeply held convictions. Such resonances may be hard to articulate, but successful articulations are relevant for the popularity of social movements. They are also a starting point for theorists aiming to link their writings with the collective resonances (Taylor 1989, 1991; Honneth 2012; Rosa 2016). Could it be, then, that in an analogous story to how individual and collective autonomy can “upgrade” optional committable contents into obligations, personal and collective resonances can – under the guise of authenticity – upgrade optional contents normatively?

4.2. *Non-Categorical “Identifiables”*

Authentic experiences are not an infallible guide to normative truths. There is a tension between there being normative truths about which we can be mistaken and authenticity understood as a power to experientially determine normative truths. Our authentic experiences are not an infallible guide to morality, any more than autonomous commitments are. The same threefold distinction is perhaps relevant again: some contents are categorically obligatory or forbidden whether or not they appeal to us or resonate with us. But additionally, there are optional contents that are legitimately identifiable and where the actual identifications make a difference to their evaluative or normative status. That, at least, is the proposal that this section examines.

The proposal is that like Jürgen Habermas's (1993) "ethical" questions, which are questions of self-clarification as opposed to "moral" questions that concern categorical universalizable norms, and like Taylorian (1989) strong evaluation, we can think of issues that are not morally obligatory or impermissible as being the starting point for processes of authentic self-clarification. What do I value? Which goals do I experience as more important than other goals? Which life projects do I more strongly aspire to?

This adds a deliberative aspect to important life choices. Should I accept a new job? Once I exercise my autonomy and commit myself, the optional goals turn binding. But should I commit myself? Here the process of deliberation is arguably not merely about the value of goals but "personal resonance." What only reflection and dialogue with ones who know you can touch is the question of what you experience as your goals – what goals do you deeply identify with and experience as "yours"?

Analogous processes can take place on a collective level. What weight in the collective practical reasoning does a society place on this or that consideration? Does the society aim at neutrality, or does it have identity-constituting aims? (see, e.g., Bratman 2007: ch. 13, on collective valuing). The phenomenon of collective resonance, of our traditions, can be tackled by distinguishing three levels of analysis: the individual identities, more local and limited cultural communities, and the whole political community. How they are related to each other is a natural follow-up question, to be discussed in the next section.

So the proposal is that individual and collective self-clarification can reveal that individual and collective agents have special relations to some contents, giving them extra normative weight. Such weight can legitimately be given only for non-categorical ethical contents, while some contents are as such obligatory or forbidden. The difference to autonomous exercises of the will in committing oneself is that such resonance is not voluntary, but a type of experience and a kind of receptivity.

A weaker, complementary proposal is that even if such experiences and resonances do not make a normative difference to what one ought to do, they may make a difference to what one has reason to commit oneself to. Commitments are more clearly exercises of normative powers, and the authentic resonances may at least play a role of making some autonomous choices more intelligible. But this weaker proposal may already be making a claim about personal resonance making a normative difference: it may be a claim about what one has most reason to commit oneself to or what we have most reason to commit ourselves to.

4.3. The Division of Labor Between Individual and Collective Authenticity: Deep Diversity?

Analogously to how ethical contents can be in an interplay with individual and collective autonomous commitments, we can ask whether

similar interplay or division of labor is possible between individual and collective authentic identifications. Liberal political theory has debated the relevance of such identifications under the keyword of neutrality. Neutral liberalism stresses that the state must remain neutral and leave autonomous individuals space to pursue their conceptions of the good. Perfectionist liberalism allows for the state non-neutrally to pursue aims “because the aims are good.” This means that the political community is allowed to have a conception of the good. Does this, as such, oppress individuals who do not share that conception of the good?

Charles Taylor’s notion of *deep diversity* seems to be a helpful notion here (Taylor 1997; Redhead 2002). It starts from granting all individuals equal rights but then addresses the normative significance of different traditional cultures of different sizes. It acknowledges that there are both exceptional individuals (e.g., immigrants that form tiny language groups, say, Romanians in Canada), a plurality of traditional minority cultures (e.g., the French-speaking Québécois and indigenous peoples in Canada), and a possible majority culture (e.g., Anglophone people in Canada). Everyone’s rights ought to be respected, but also collective resonances can be given some normative weight. The processes of collective resonance can perhaps be a step in defending the claim that such empirical differences make a normative difference as well.

Living, vibrant traditions work *via* individual identifications. To the extent that individuals feel the need for shared practices (over more individualistic pursuits), shared practices enjoy the needed support. That something resonates within a group engaged in a shared practice is a form of collective resonance that can be given normative weight within that practice. It is not exactly a form of collective democracy, understood as collective willing and commitments, but rather collective self-clarification: what contents seem to matter more for a group or for an individual?

To sum up, the angle of authenticity provides an analogous story to how autonomous commitments may stack up to form an individual’s identity or a shared form of life. Personal and collective resonances also shed light on why personal and collective autonomy is being used in the way it is being used: that something resonates with me is a good reason for me to commit to it.

5. Conclusions

This chapter has explored the position I have called Hegel’s “mediated realism” or “sublated constructivism.” That view holds that historical and social *Sittlichkeit* is superior to ahistorical and individualist *Moralität* structurally, epistemically, and normatively (Laitinen 2016). The chapter used the Euthyphro dilemma to define realism and constructivism and discussed problems of constructivism.

Section Three discussed one important mechanism of historical change in normative truths: within limits, both personal and collective commitments alter the normative landscape. Some moral contents are obligatory or forbidden even in the absence of commitments, but some contents are “committables”: autonomous commitments make a difference to their role in ethical life. This raises the follow-up question of the division of labor of ethical contents, individual autonomy, and collective autonomy.

Section Four discussed more tentatively a related mechanism, which instead of autonomous will or commitments is a matter of authentic experiences and personal and collective resonance, which possibly can make a difference to the normative landscape as well. This raises the follow-up question of a division of labor of ethical contents, personal resonance and collective resonance, and Taylor’s notion of “deep diversity” seems to be forged for precisely that purpose.

Sections Three and Four thus added to the functions that historical *Sittlichkeit* has in relation to normative truth. To the extent that historical forms of life can be seen as repositories of autonomous commitments and authentic identifications, the forms of life make a difference to the normative shape of the situations that individuals encounter within them. But the main lesson of the fallibility of historical constructions stands even concerning them: one main function of social constructions is, almost paradoxically, that their shortcomings and faults make visible important normative truths.

Notes

1. See Bagnoli (2011, 2013); Lenman and Shemmer (2012); Copp (1995).
2. It is not clear whether Hegel had an “ethical theory” at all, as opposed to a social and political philosophy. For discussion, see Wood (1990); Moyar (2011); Laitinen (2016).
3. Cf. Bagnoli (2011: 1): “As a ‘metaethical account’ – an account of whether there are any normative truths and, if so, what they are like – constructivism holds that there are normative truths. These truths are not fixed by facts that are independent of the practical standpoint, however characterized; rather, they are constituted by what agents would agree to under some specified conditions of choice.”
4. My use of “realism” (for non-constructivism) is thus slightly different from that of Kenneth R. Westphal, who uses “realism” “to designate views according to which there are human mind-independent moral truthmakers.” A view such as McDowell’s (1985) does not see normative properties as mind-independent, but rather as akin to secondary qualities like colors. I’m happy to allow that McDowell’s view is a form of realism, as the relation between the subject and the worldly properties is responsive, a matter of experience (even though perhaps not literally perception), and not that of constructing or judging. Westphal (2016-17: 1) writes that he also begins with “Socrates’s question to Euthyphro to distinguish between moral realism and moral irrealism.” But he also writes that “Hegel’s moral constructivism identifies and

justifies the core content of a natural law theory, *without* invoking (one way or another) the metaphysical or ontological issues or commitments of moral realism, antirealism, irrealism or ‘truth makers’ (of moral propositions), *etc.*” (Westphal 2016–17: 1). So clearly, Westphal does not define *constructivism* as one answer to the Euthyphro question – the opposite of realism for him is not constructivism but irrealism. So my usage of “constructivism” is different from Westphal’s – I am focused on the issue of normative truth, and its dependence on some X that “legislates,” “determines,” or “commands” it.

5. See Shafer-Landau (2003). This may well differ from other ways of using “constructivism” – typically divine command theory is not classified as a form of constructivism. This way of classifying theories highlights the need for any theory to take a stand on the issue of any infallible X as the source of normative truths – or the need to explain what determines normative truths if the X is taken to be fallible.
6. Especially Westphal (2007, 2010, 2013) suggests that constructivist justification and fallibility go together. However, if constructivist justification is fallible, then it cannot be the ultimate criterion of truth (against which constructivist justification would count as fallible or mistaken). This is no problem for views which distinguish between truth and justification (such as typical realist theories), but I am not sure whether that is Westphal’s view.
7. In his chapter in this volume, Christopher Yeomans makes the interesting observation that “the modern institution of property is a kind of institutionalization of infallibility at the individual level. What I mean by that is that *qua my property*, I cannot misuse a thing. I can do all sorts of harm with it, or fail to use it profitably, but the modern concept of property builds an arbitrariness of purpose into my relation to a thing that makes misuse of a thing *qua property* impossible.” That is an interesting proposal, but for the following reasons, I would resist the conceptualization of property as the “institutionalization of infallibility.” First, we are not infallible concerning rights, including property rights. I may give someone money for a bicycle, but if it turns out that the bicycle is stolen property, it does not end up being my property. Yet I may erroneously judge it is mine (if I don’t know it was stolen). This is not the kind of fallibility Yeomans has in mind, but as the possibility of mistaken judgments is the paradigm case of fallibility, one should not call anything an “institutionalization of infallibility” that allows for fallibility in the sense of possibility of mistaken judgments. Second, there are two ways in which mistaken judgments can be ruled out: one is omniscience, which is the kind of infallibility typically attributed only to Gods, and the other is the phenomenon of “anything goes” where no judgments are better or worse, and so thanks to the subject matter it is impossible to get things right or wrong. So what Yeomans has in mind seems to be a kind of institutionalization of “anything goes.” Third, what Yeomans has in mind is that one does not misuse one’s property *as one’s property* even when one uses it in arbitrary ways. An alternative conceptualization would start from the observation that property is a matter of rights and duties, whereas misusing things is a matter of reasons. One has a right to smash one’s CD player into pieces, even when one has no reason to do so, and it would be silly to do so (but Yeomans is right that that is not misuse *qua* one’s property). The proponents of a “right to do wrong” (e.g., Waldron 1981) extend this to moral reasons: even though choosing to do X is morally wrong, and I act wrongly in X-ing, I may have a right to choose X or Y. It is morally wrong, but I have the right to do so. Fourth, there may also be cases of misuse of one’s property *qua* property. Indeed, many jurisdictions do have limits as to what one may do with one’s property (and of course, on

- what is a morally suitable thing to own: not fellow human beings, for example). Say, in a bankruptcy, one must declare all one's property. One case of misusing one's property *qua* property could then be to hide it from those with legitimate demands on it (cf. also Yeomans 2015).
8. A constructivism without a thinking judge (if there are any) has to meet this metaphysical gap by some other means.
 9. Typically there are structural reasons (related to positions of power, distribution of capital, and resources and so on.) for empirical social realities to stubbornly remain far from ideal even in comparison to the contemporary socially accepted principles. What is more relevant here is progress concerning the socially, historically accepted principles themselves.
 10. Note that there is no need to think of preexisting moral truths or facts as spatially located somewhere, for example, "out there." Such metaphors mislead; the relation between principles and token facts is not spatial. See Laitinen (2008: ch. 7).
 11. Supposing such construction is conceptually and metaphysically possible, there will be an indefinite number of rival candidate methods – how are we to know which candidate method to trust? The Rawlsian reflective equilibrium is one "meta-criterion" (Rawls 1971), but it presupposes moralized fixed points and thus partly presupposes what was supposed to be established. It, too, is a moralized method, and is not available for those constructivists who seek to rely only on nonmoral materials.
 12. The universalizability formulations of Immanuel Kant's categorical imperative are the best-known attempt but were criticized already by Hegel for being either empty or presupposing the results. It is too harsh to accuse universalizability of emptiness, but in a qualified form, the challenge sticks. If one only focusses on formal universalizability of maxims, one cannot derive unique moral contents, as various contents are formally universalizable but morally impermissible, or are not formally universalizable even though are arguably morally permissible (such as everyone paying their credit card bills early). If one focusses, after Onora O'Neill (1989), on what can be *willed* as a universal law, one ends up with more determinate contents, but that move seems to either presuppose morally informed willing or not produce uniquely moral outcomes. And substantive formulations of the categorical imperative demanding respect for others as ends-in-themselves are already explicitly moralized. So the challenge remains to come up with a procedure which is not already moralized, but which works.
 13. Or alternatively: if it is a real human being or society, in what sense is it ideal? Do we have to assume the infallibility or ideality of ordinary human individuals or groups? For example, Jürgen Habermas's (1993) discourse ethics is a procedural approach, trying to locate the ideality in idealizing presuppositions made in concrete discourses. It is however unclear what Habermas's stance is towards the results of concrete moral discourses: which results of which concrete conversations are relevant for moral judgments here and now? Habermas does not seem to think that *any* concrete conversations would have moral authority in the same way that democratic decisions have democratic authority (and even if Habermas would think so, the rest of us have no reason to think so).
 14. Any particular historical stage of *Sittlichkeit*, with some defects in its contents (and in Hegel's own times modern civil society certainly had its share of defects, especially the fact that it is never rich enough to prevent the generation of poverty and a "rabble") is to be overcome and superseded with *new* contents, a new variant of *Sittlichkeit*, whereas a return to a morality of

- conscience in the absence of well-ordered ethical life would be a serious step back (Hegel 1991).
15. Hegel (1991) also speaks about “liberating duties,” in the sense that the well-ordered ethical life also relieves individuals from their need to deliberate: if what the individual does customarily does not invite criticism, then let the custom go on.
 16. Of course, everyone’s conscience might be aligned in that they give the same output. See Thomas Christiano (2008) for four facts (diversity, disagreement, fallibility, cognitive bias) explaining why this is not a realistic expectation for humans as we know them.
 17. There are elements in Axel Honneth’s (2012) and Charles Taylor’s (1995) views which resemble the view under consideration here.
 18. A straightforward kind of historical variance may simply concern the circumstances of action. The principle “in circumstance C, do deed D” is relevant only in circumstance C, and it is naturally historically variable what circumstances hold (say, the duty to respect the privacy of voting decisions in a voting booth is relevant only when there is a system of voting in place). Further, in one historical era one may do deed D by doing deed E, and in some other historical era one may do deed D by doing deed F. Which gestures count as respectful and which as insults varies historically, and what counts as voting in one context may be different in another context. These superficial kinds of variations are ones that any metaethical view, howsoever ahistorical, can accommodate.
 19. See Lilian O’Brien (2019) on must-thoughts and Michael Bratman’s (2007) planning theory on specification of commitments.
 20. See Paul Ricoeur (1992) on two aspects of an individual’s identity: voluntary commitments and formed habits and character.

References

- Ásta (2018). *Categories We Live By*. Oxford: Oxford University Press.
- Bagnoli, C. (2011). Constructivism in Metaethics, in *The Stanford Encyclopedia of Philosophy* (Winter 2011 Edition), ed. E.N. Zalta. URL = <<http://plato.stanford.edu/archives/win2011/entries/constructivism-metaethics/>>.
- Bagnoli, C. (ed.) (2013). *Constructivism in Ethics*. Cambridge: Cambridge University Press.
- Brandom, R.B. (2002). *Tales of the Mighty Dead*. Cambridge, MA: Harvard University Press.
- Bratman, M. (2007). *Structures of Agency: Essays*. Oxford: Oxford University Press.
- Christiano, T. (2008). *The Constitution of Equality: Democratic Authority and its Limits*. Oxford: Oxford University Press.
- Copp, D. (1995). *Morality, Normativity, and Society*. Oxford: Oxford University Press.
- Dancy, J. (2000). *Practical Reality*. Oxford: Oxford University Press.
- Habermas, J. (1993). *Justification and Application. Remarks on Discourse Ethics*, trans. C.P. Cronin. Cambridge, MA: MIT Press.
- Hardimon, M.O. (1994). *Hegel’s Social Philosophy: The Project of Reconciliation*. Cambridge: Cambridge University Press.
- Hegel, G.W.F. (1991). *Elements of the Philosophy of Right*, ed. A.W. Wood, trans. H.B. Nisbet. Cambridge: Cambridge University Press.
- Hindriks, F. (2019). *The Structure of Society*. (Unpublished manuscript).

- Honneth, A. (2012). *The I in We: Studies in the Theory of Recognition*, trans. J. Ganahl. Cambridge: Polity Press.
- . (2014) *Freedom's Right: The Social Foundations of Democratic Life*, trans. J. Ganahl. Cambridge: Polity Press.
- Ikäheimo, H. (2011). Holism and Normative Essentialism in Hegel's Social Ontology, in H. Ikäheimo and A. Laitinen (eds.) *Recognition and Social Ontology*. Leiden: Brill, 145–210.
- Johnston, M. (1989). Dispositional Theories of Value. *Proceedings of the Aristotelian Society* 63: 139–174.
- Kant, I. (1996a). *Lectures on Ethics*, in *Kants gesammelte Schriften*, vol. XXIII. Berlin: Preussische Akademie der Wissenschaften.
- . (1996b). *Metaphysics of Morals*, in *Kants gesammelte Schriften*, vol. VI. Berlin: Preussische Akademie der Wissenschaften.
- Laitinen, A. (2008). *Strong Evaluation without Moral Sources. On Charles Taylor's Philosophical Anthropology and Ethics*. Berlin: De Gruyter.
- . (2015). Broader Contexts of Non-Domination: Pettit and Hegel on Freedom and Recognition. *Critical Review of International Social and Political Philosophy* 18(4): 390–406.
- . (2016). Hegelian Constructivism in Ethical Theory?, in I. Testa and L. Ruggiu (eds.) *"I that is We and We that is I." Perspectives on Contemporary Hegel: Social Ontology, Recognition, Naturalism, and the Critique of Kantian Constructivism*. Leiden: Brill, 127–146.
- Larmore, C. (2003). Back to Kant? No Way. *Inquiry* 46(2): 260–271.
- Lenman, J. and Y. Shemmer (eds.) (2012). *Constructivism in Practical Philosophy*. Oxford: Oxford University Press.
- Liebermann, M. (1998). *Commitment, Value and Moral Realism*. Cambridge: Cambridge University Press.
- McDowell, J. (1985). Values and Secondary Qualities, in T. Honderich (ed.) *Morality and Objectivity*. London: Routledge, 110–129.
- . (1994). *Mind and World*. Cambridge, MA: Harvard University Press.
- Moyar, D. (2011). *Hegel's Conscience*. New York: Oxford University Press.
- Neuhouser, F. (2000). *Foundations of Hegel's Social Theory: Actualizing Freedom*. Cambridge, MA: Harvard University Press.
- O'Brien, L. (2019). The Subjective Authority of Intention. *Philosophical Quarterly* 69(275): 354–373.
- O'Neill, O. (1989). *Constructions of Reason: Explorations of Kant's Practical Philosophy*. Cambridge: Cambridge University Press.
- Ostritsch, S. (2014). *Hegels Rechtsphilosophie als Metaethik*. Münster: Mentis.
- Pinkard, T. (2002). *German Philosophy 1760–1860. The Legacy of Idealism*. Cambridge: Cambridge University Press.
- Pippin, R.B. (2005). *The Persistence of Subjectivity: On the Kantian Aftermath*. Cambridge: Cambridge University Press.
- . (2007). Brandom's Hegel, in E. Hammer (ed.) *German Idealism: Contemporary Perspectives*. London: Routledge, 164–170.
- . (2008). *Hegel's Practical Philosophy: Rational Agency as Ethical Life*. Cambridge: Cambridge University Press.
- Rawls, J. (1971). *A Theory of Justice*. Cambridge, MA: Harvard University Press.
- . (1980). Kantian Constructivism in Moral Theory. *Journal of Philosophy* 77(9): 515–572.

- Raz, J. (1986). *The Morality of Freedom*. Oxford: Clarendon Press.
- Redhead, M. (2002). *Charles Taylor: Thinking and Living Deep Diversity*. Lanham, MD: Rowman and Littlefield.
- Regan, D. (2002). The Value of Rational Nature. *Ethics* 112(2): 267–291.
- Ricoeur, P. (1992). *Oneself as Another*. Chicago: University of Chicago Press.
- Rosa, H. (2016). *Resonanz. Eine Soziologie der Weltbeziehung*, 2. Auflage. Berlin: Suhrkamp.
- Searle, J.R. (1995). *The Construction of Social Reality*. London: Allen Lane.
- Shafer-Landau, R. (2003). *Moral Realism: A Defence*. Oxford: Clarendon Press.
- Stern, R. (2007). Freedom, Self-Legislation and Morality in Kant and Hegel: Constructivist vs. Realist Accounts, in E. Hammer (ed.) *German Idealism: Contemporary Perspectives*, London: Routledge, 245–266.
- . (2011). *Understanding Moral Obligation: Kant, Hegel, Kierkegaard*. Cambridge: Cambridge University Press.
- . (2012). Reply to My Critics. *Inquiry* 55(6): 622–654.
- Taylor, C. (1989). *Sources of the Self: The Making of the Modern Identity*. Cambridge: Cambridge University Press.
- . (1991). *The Ethics of Authenticity*. Cambridge, MA: Harvard University Press.
- . (1995). Heidegger, Language, and Ecology, in *Philosophical Arguments*. Cambridge, MA: Harvard University Press, 100–126.
- . (1997). Deep Diversity and the Future of Canada, in D. Hayne (ed.) *Can Canada Survive?: Under What Terms and Conditions?*. Toronto: University of Toronto Press, 29–36.
- Tuomela, R. (2011). *Social Ontology*. Oxford: Oxford University Press.
- Waldron, J. (1981). A Right to Do Wrong. *Ethics* 92(1): 21–39.
- Westphal, K.R. (2007). Normative Constructivism: Hegel's Radical Social Philosophy. *SATS – Nordic Journal of Philosophy* 8(2): 7–41.
- . (2010). Hegel, in J. Skorupski (ed.) *The Routledge Companion to Ethics*. London: Routledge, 168–180.
- . (2013). Rational Justification and Mutual Recognition in Substantive Domains. *Dialogue: Canadian Journal of Philosophy* 52: 1–40.
- . (2016–17). Hegel, Natural Law and Moral Constructivism. *The Owl of Minerva* 49(1–2): 1–44.
- Wood, A.W. (1990) *Hegel's Ethical Thought*. Cambridge: Cambridge University Press.
- Yeomans, C. (2015) *The Expansion of Autonomy: Hegel's Pluralistic Philosophy of Action*. New York: Oxford University Press.

9 Historical Constructivism

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Introduction

This chapter is primarily concerned with the second of the conceptual dichotomies identified by the editors of this volume as posing a problem for Kantian constructivism, namely, the dichotomy between reason and history. As the editors note, failure to come to grips with this problem can render a theory “incapable of explaining how historically concrete sociopolitical institutions can embody the good and how moral progress can be rendered intelligible” (4). Within this problem, I will be particularly interested in the first part of the incapacity, namely, the difficulty in showing how institutions can embody the good. In fact, in my view, the question of historical progress is largely a red herring. The real problem in understanding the connection between reason and history is the conceptual problem of understanding the connection between something relatively simple and abstract with something relatively complex and concrete. The problem is the complicated specificity of history, rather than its temporal duration or becoming. That concreteness has a temporal form – that is what makes it historical – but the temporal form is itself more complex than mere duration or change. The temporal form proper to history is the way that the present is constituted as a field of tension by expectations that pull in different and sometimes opposite directions. This is a conception of historicity worked out by the historian Reinhart Koselleck and his collaborators, and here it is married to a distinctively Hegelian conception of philosophy which involves bringing multiple perspectives to bear on the object of study (Koselleck 2003). Hegel calls this method “the idea,” but the theoretical subtleties of that notion will remain in the background of this study (for those subtleties and their connection to historicity, see Yeomans 2018). The important point to make at the beginning is just that the multiplicity of perspectives mitigates the apparent simplicity and abstractness of reason. The greater structure of reason when understood as a multiplicity of perspectives provides more attachment points, as it were, to the concrete realities of social institutions. Those attachment points allow one to describe the

perspectives at different levels of generality, so that the system of perspectives that at its most general consists of universal, particular, and individual perspectives can also be framed more concretely as consisting of economic, juridical, and political perspectives. The economic, juridical, and political perspectives each represent certain expectations that are in tension with each other and together form the historical field of tension within which the German Idealists did their work as political theorists. In my view, what makes Kant, Fichte, and Hegel philosophers rather than simply apologists for a certain class position is that all of the three historical perspectives show up in each of their work, and the differences between them are largely a matter of emphasis.

To make the issue more tractable I will focus on the historical institution of modern property relations.¹ This chapter undertakes a metaethical comparison of the way Kant, Fichte, and Hegel derive the institution of property from their fundamental principles. These fundamental principles are, respectively, Kant's Universal Principle of Right, Fichte's Summons (*Aufforderung*), and Hegel's Command of Right (*Rechtsgebot*). The comparison is metaethical in the sense that the guiding theme will be the different ways in which historicity is involved in the derivations, and what difference that makes with respect to the character of the arguments as constructivist.

I begin in section 1 with a brief discussion of constructivism, oriented by the work of Kenneth R. Westphal and Arto Laitinen.² Then, in section 2, I sketch the arguments for and shape of the institution of property in Kant, Fichte, and Hegel. In section 3, I say a bit about how these features of their doctrines of property relations relate to the social and political tensions surrounding property relations at the turn of the nineteenth century and thus what is historical about the constructivism employed.

1. Constructivism

I'll begin with Kenneth R. Westphal, who has long advocated an interpretation of both Kant and Hegel as constructivists, and specifically against the background of Onora O'Neill's contributions to the contemporary metaethical debate. More specifically, Westphal has interpreted them as *natural law* constructivists, but here I leave this aspect of his view out of consideration to focus on the nature of the constructivism itself (as I also leave aside the connection to O'Neill's work).³ There are four aspects to this constructivism that I want to highlight, though I don't pretend to offer a full reconstruction of Westphal's views. These four aspects are: First, that the relevant criterion of justice is modal rather than indicative or hypothetical. Second, that the procedure for articulating duties from this basic criterion is regressive, not progressive. Third, that the relevant facts of agents' finitude on which this regressive procedure operates are

social rather than counterfactual. And fourth, that the resulting theory is objectivist rather than realist. Let me briefly explain these distinctions before putting them to work. I should say in advance that I don't take these four criteria to set out necessary and sufficient conditions for any view to count as constructivist but only to indicate a meaningful sense of constructivism that has both historical resonance with the German texts and contemporary appeal.

First, the relevant criterion of justice is modal rather than hypothetical. As Westphal puts it, "[A]greement plays no role at all in Kant's rational idea of the social contract. . . . Instead of contractarian agreement, Kant's theory of normative justification relies on *possible* consistency of human maxims or forms of outer action. Kant's basic criterion of right action, along with its various instances, is neither indicative nor hypothetical; it is modal" (Westphal 2007: 13–14). Instead of attempting to specify that to which we *did* (implicitly) agree or *would* agree under the hypothetical circumstances of, for example, the state of nature, it attempts to specify that to which we *could not* agree under any circumstances. Of course, as a result of this modal shift the rights and duties specified by a constructivist basic principle can be minimal at best. A further constructivist application of the principle in the derivation of extended rights and duties is therefore required, which leads to the second element.

That derivation is regressive rather than progressive (Westphal 2007: 31). That is, instead of attempting to further spell out what is implicit in the minimal rights justified by the modal test of possible agreement, Kant (and especially Hegel) inquire into what conditions are required in order to secure those very minimal rights. (This is the sense in which this constructivist regress has aspects of transcendental argumentation, though the constructivist justifications regress on the conditions of a different object – rights instead of experience.) In contrast to contractualist justifications of specific duties by the progressive application of bargaining scenarios, the constructivist procedure inquires into the conditions that make possible such bargaining and any resulting voluntary agreement in the first place. This then introduces two questions: What sort of conditions are sought? and What characterization is given for the agents whose (non-)agreement is subject to the modal test?

The answer to both of these questions is essentially social. The conditions sought are largely institutions, and the subjects whose agreement is to be secured (or whose necessary disagreement is to be avoided) are finite reasoners with an essential need for discourse with others of their kind. The argument reconstructs the institutions within which agents are able to first identify their own interests and pursue them in concert with others, and thus to bargain and execute contracts with others. In both cases, the social aspect of the regress leads Kant and Hegel to move from private to public law, and in such a way that the elements of public law substantially modify the elements of private law. This subsequent

modification gives their theories an aspect of progressive argumentation (since the institutional conditions of the basic rights place certain constraints on and suggest certain specific forms of those basic rights), but not in a way that reintroduces contractualist bargaining scenarios.

Finally, the resulting theory is objectivist rather than realist. Westphal means by this that the theory is orthogonal to the realism/antirealism debate, and need take no stand on the question of whether the values in question are “out there” independent of subjects or generated by subjects in some way. Metaethical questions surrounding the nature of justification and the possibility of objectivity remain in play, but the unfortunate, positivistic framing of the latter issues in terms of the location of norms (modeled after the location of spatiotemporal objects) is discarded. The point of the theory is to generate the stable norms that can justifiably command assent and thus address the possibility of social conflict. As long it can generate such norms, their location or ontological status is irrelevant. Obviously, Kantians and post-Kantians have strong epistemological and conceptual reasons to frame the issue this way, but even for contemporary metaethics there is value in backing away from the commitment to positivism implicit in the location debate.

In contrast, Laitinen explicitly characterizes (Hegelian) constructivism as an alternative to realism (Laitinen 2016: 128).⁴ But the main force of his objection to what he takes to be antirealist forms of constructivism applies equally well to an objectivist variant, since his main objection is that constructivism makes us infallible because it makes us the ultimate sources of value:

[C]onstructivism makes the [the source of value] an infallible source of value, normativity and deontic features. For something to be mistaken, there must be some criterion according to which it can be mistaken. In the constructivist view, there isn't. (Whatever the constructivist view deems fallible is not thereby [the source of value]). The same point concerns any change in the social norms: without an independent standard, any different social norms are just different, and no transition from A to B or from B to A can count as development.

(Laitinen 2016: 128)

In response, Laitinen proposes a “mediated realism” on which the social constructions are not themselves sources of normative truth but rather “epistemic devices” for discovering that truth through the experience of success or failure of such constructions. The social institutions that structure our ethical life don't ultimately give us reasons for thinking that we ought to do or avoid certain things, but they do give us the opportunity to discover those ultimate reasons through their correspondence with those ultimate reasons (or lack thereof).

In the rest of the chapter, I will take the four features outlined earlier to characterize constructivism: the criterion is modal rather than hypothetical; the procedure is regressive, not progressive; the relevant facts are social rather than counterfactual; and the theory is (at least) objectivist (again, putting aside the ontological issue of realism – I mean only that the theory purports to construct norms with objective rather than merely subjective or idiosyncratic validity). And I will take the infallibility objection to be the chief skeptical doubt to which constructivism must respond.

2. Property

In this section I want to consider the arguments for property in Kant, Fichte, and Hegel as constructivist arguments. With respect to Laitinen's objection to constructivism, the concept of property makes an interesting test case because the modern institution of property is a kind of institutionalization of infallibility at the individual level. What I mean by that is that *qua my property*, I cannot misuse a thing. I can do all sorts of harm with it, or fail to use it profitably, but the modern concept of property builds an arbitrariness of purpose into my relation to a thing that makes misuse of a thing *qua property* impossible. In Proudhon's example, "The proprietor has the power to let his crops rot underfoot, sow his field with salt, milk his cows on the sand, turn his vineyard into a desert, and use his vegetable garden as a park" (cited in James 2012: 515). Peter Benson goes even further: "Even one who uses his or her property in a way that violates the rights of another . . . does not thereby and as a matter of the right of property cease to be owner of it" (Benson 2002: 769). Whatever we, the non-owners, think of the owner's use is irrelevant. Every owner is the infallible source of the norms relating to their own use of their property *qua property*.

First take Kant's doctrine of property. The basic argument for the institution of property is structured by the relationship between the general normative principle of Kant's political philosophy, the Universal Principle of Right, and the specific principle of acquired rights to property, contract, and status that Kant terms the Postulate of Practical Reason with Regard to Rights. Here they are in full:

The Universal Principle of Rights (UPR): Any action is *right* if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law (6:230).⁵

The Postulate of Practical Reason with Regard to Rights (PPRR): It is possible for me to have any external object of my choice as mine, that is, a maxim by which, if it were to become a law, an object of choice would *in itself* (objectively) have to *belong to no one* (*res nullius*) is contrary to rights (6:246).

How do we get from the first to the second? Kant does not make it easy to find out. Rather than entering into a full reconstruction, I want to pull two ideas from the interpretations of Westphal and Arthur Ripstein.

First Ripstein: on his view, the relation between the UPR and the PPRR is one of extension. Whereas the UPR is sufficient to generate your innate right to control over your own body, it only generates your acquired right to property if it is extended by means of the a priori intuition of space. Both rights concern the incompatibility of control over something, but the intuition of space generates new incompatibilities outside the body itself in the control of external objects. On the one hand, this can look progressive rather than regressive, and thus perhaps more contractualist than constructivist. But it is essential to this move that no particular kind of interest is invoked nor any bargaining scenario. Instead, Kant tries to show that under the conditions of our sharing space with other human beings, the mere possibility of choice – which *cannot be given up* without giving up the kind of freedom mentioned in the UPR – requires the right of property.

On Ripstein's view, this property right is quite sweeping in its modality (i.e., in the extent of control it confers on owners) and equally sweeping in its restriction of the holder of the right to individual agents:

Kant's argument shows, first, that the only way that a person could have an entitlement to an external object of choice is if that person had the entitlement formally, because having means subject to your choice is prior to using them for any particular purpose. Second, Kant argues that the exercise of acquired rights is consistent with the freedom of others, because it never deprives another person of something that person already has. So anything less than fully private rights of property, contract and status would create a restriction on freedom that was illegitimate because based on something other than freedom.

(Ripstein 2009: 62)

There are good reasons to doubt that this argument is valid. There is just nothing in either the formal notion of choice or the formal intuition of space that will do the requisite work of justifying such full and complete control, nor the individuality of owners. And in terms of institutional features of the property right, all that Kant seems to think he can get out of the formal notion of choice extended by the formal intuition of space is the notion that land is the first and paradigmatic form of property (6:261–2).

Thus it is not surprising that, in contrast, Westphal's Kant concludes from precisely this formality to a far more restricted modality of control in Kant's right to property – in fact such a restricted modality that Westphal emphasizes that Kant justifies only *possession* (*Besitz*) and not property (*Eigentum*). In a reading much closer to the text of the PPRR,

Westphal's Kant concludes only that there cannot be an unconditional *prohibition* on use and possession (and says nothing about any of the other incidents to the right to property, such as income or transference) (Westphal 2002: 90–92). And, importantly, rules about the specific extent of use and possession, and its potential combination with other incidents of the right to property, must be justified on independent grounds and settled by positive legislation. The property right is just the collection of all of these positive laws (6:261). At this point, the constructivism of Kant's theory breaks down, just as we get to historical features of property relations (where historical is here understood in the sense of institutional specificity more than change over time).

Take Fichte next. Fichte picks up precisely that feature of choice, the formalism of which makes Kant's doctrine so problematic. It is crucial to Kant's theory that the choice in question be distinguished from mere wishing – you cannot have a property right to anything you wish to have, but only to those things that can actually serve as means for your ends. This is explicitly built into the relevant derivation of the property right for Fichte, which turns on the notion of efficacy.

The derivation of property right therefore turns on the relation between freedom and efficacy. In fact, this is built into the very first theorem of the *Foundations of Natural Right*: “A finite rational being cannot posit itself without ascribing a free efficacy to itself” (Fichte 2000: 18). As Fichte's derivation proceeds, it turns out that such efficacy requires the resistance of an external world, and in particular the resistance provided by the efficacy of other finite rational creatures (second theorem). The key form of resistance is a summons from the other for us to engage in free willing that defines our relationship by the conditions of free willing, namely right (third theorem). At least this part of Fichte's argument seems properly characterized as constructivist, specifically in the second and third meanings of that term: the procedure is regressive, not progressive; and the relevant facts are social rather than counterfactual.

How, then, do we get from this basic relation of right to the right to property? Separating my efficacy from your efficacy requires a stable distinction between the spheres in which we operate. The security and stability involved must be of a high order, since we are inquiring here into a condition of possibility of free (finite) rational beings as such: “What initially, and from a merely speculative perspective, are the conditions of personality become rights simply by thinking of other beings who – in accordance with the law of right – may not violate the conditions of personality” (Fichte 2000: 101). Specifically, the kind of security involved is the freedom from others interfering with the contexts of our action in such a way as to compromise our efficacy:

Only other free beings could have produced an unforeseeable and unpreventable change in our world, i.e. in the system of things that we have known and related to our purposes; but in that case,

our free efficacy would be disrupted. – The person has the right to demand that in the entire region of the world known to him everything should remain as he has known it, because in exercising his efficacy he orients himself in accordance with his knowledge of the world. . . . (Here is the ground of all property rights.)

(Fichte 2000: 105–106)

The key is the need for the free subject, in its appearance as a body, to have a way to recognize its own efficacy in the sensible world. This, in turn, requires absence of interference from other agents, so that any nonnatural change can be traced by the subject back to her or his own ends and thus provide evidence of her or his efficacy.

But as David James has pointed out, this role of efficacy decisively changes the nature of the property right:

Fichte treats the right to undertake a certain activity as more fundamental than the right to a thing when, in § 18 of the *Foundations of Natural Right*, he comes to determine in more detail the terms of the property contract. Fichte here states that any objects which are an individual's property are so only in virtue of the particular use that this individual makes of them, so that the most fundamental object of property rights is to be understood as a particular activity. He consequently describes the right to property as “the exclusive right to actions, and by no means to things.”

(James 2010: 206)

Thus Fichte's “sphere” of property here points less to a determinate spatiotemporal region (as it does in Kant) than to a range of activities that can be securely pursued without interference and thus which I can be assured are the effects of my own will and activity.

The nature of the property right is further changed because Fichte introduces a particular end, that of self-preservation, as required by all other ends. It is required for all other ends because it is required for the existence of the free will itself. This remedies the deficiency that we saw in the formality of Kant's view of choice (since it specifies a particular end that can be used to determine whether something in the world is truly a means and in what respect), and it specifies the most basic means–end relation as one of labor. Fichte then connects this specification of ends with the notion of a sphere of activities to argue that the basic form of efficacy is a right to a profession or occupation. Ultimately the sphere of freedom required for free efficacy is the bundle of activities that make up an occupation that allows one to make his or her living in the economic world.

In fact, the situation is more complicated, since there are two different forms of property in Fichte. The kind of property described thus far

is the basic form and the one that must be protected first and foremost. Protection of this form of property involves support of the state and therefore a compelling state interest in seeing that everyone has a profession and pursues it diligently. Whatever is left after everyone's basic property has been secured and the relevant support has been paid to the state is "absolute property," and this form of property is thus exempt from the sort of state intervention that is intrinsic to the basic form. Absolute property, then, corresponds to the modern form of property with respect to which we are infallible. And though this form of property is therefore more closely associated with things rather than with activities, one might think that the central insight is that a kind of leisure is owed to us for the free play of our faculties (James 2012).

To come back to the metaethical question, most of this looks straightforwardly constructivist. It is regressive, social, and objectivist. Unlike Kant, however, Fichte's social contract is indicative rather than modal or even hypothetical. Not only does Fichte envision regular constitutional conventions to set things like the number and nature of occupations; even in their absence he claims that positive law is so clearly derived from the basic principles that anyone can "do the math." The detailed agreement can therefore be considered as one to which all have actually agreed, even if only implicitly (Fichte 2000: 98–99). In this respect, the procedure is quite a departure from the Kantian constructivist model. Again, as in Kant, the constructivism breaks down at the very point where we come to historical specificity; in Fichte, where the specific bundles of activities cohere to make up an occupation. Fichte's procedure is a departure from the Kantian constructivist model despite the fact that, for Fichte, this direct application of norms to facts is precisely what secures the constructivism of the account (in the sense that it secures the status of finite rational agents as sources of all the relevant norms). It does so because the principle of direct application eliminates problems of judgment for which other norms with perhaps other sources might need to be found.

Before moving on to Hegel's conception of property, I want to connect this point to the problem of infallibility identified by Laitinen for constructivist accounts. The reason constructivism seems to break down precisely at the point of historical specificity is that this is precisely the point at which it seems absurd to think that reasonable people couldn't disagree, and thus that reason itself could settle the issue. Kant accepts this possibility of reasonable disagreement and turns primarily to public law as a way to provide institutional form to the debate and to propose some basic and largely formal guidelines. Fichte quite notoriously rejected the notion that reasonable people could disagree about even the finest details of application of moral and political judgment, but this saddles his view with absurdity at these points of historical specificity. We seem to have a kind of dilemma for constructivism: either abandon the notion that we are sources of the norms of historically

specific institutions, or abandon the notion that reasonable people can disagree about those norms. If we take the first horn of the dilemma we create a space for pure politics and the individual exercise of judgment but at the expense of normative criteria of decision. If we take the second horn we seem to owe our interlocutors a derivation which seems logically impossible or which might require the kind of closed commercial state advocated by Fichte (which seems politically and economically impossible, to say nothing of its desirability). It is against the background of this dilemma that I want to consider Hegel's derivation of the concept of property.

The initial discussion of property in Hegel's *Elements of the Philosophy of Right* is situated within a section entitled "Abstract Right." Here is where the initial theme of infallibility is introduced, through the important role it plays in Hegel's derivation of property from the *Rechtsgebot*: "be a person and respect others as persons" (PR: §36).⁶ Infallibility is introduced by the way that personality is introduced as subjectivity aware of itself as determinate and yet *unlimited*: "Personality begins only at that point where the subject has not merely a consciousness of itself in general as concrete and in some way determined, but a consciousness of itself as a completely abstract 'I' in which all concrete limitation and validity are negated and invalidated" (PR: §35R). One is tempted, of course, to immediately add "as unlimited *normatively speaking*," but it is not clear that the addition quite captures the depth of Hegel's meaning here. As Heidegger reminds us that talk of values is poor recompense for the loss of being, Hegel here calls us back to a lived sense of independence not just from norms but from patterns of living. This independence marked the lives of the nobility (at least away from court), and one of the functions of the modern conception of property is precisely to generalize this personal independence. This is a kind of social infallibility, if you like, that is connected with experiments in living and self-authorship.

Indeed, schematically considered, one might say that Hegel's derivation of property has only one step, which is just to point out that the very absence of general conditions on the scope of legitimate property relations is precisely that feature which makes property the actualization of personality in the world. In Hegel's text, this comes out in the connection between the "infinity" of the will and its existence as reason:

The person must give himself an external *sphere of freedom* in order to have being as idea. The person is the infinite will, the will which has being in and for itself . . . (PR §41). The rational aspect of property is to be found not in the satisfaction of needs but in the superseding of mere subjectivity of personality. Not until he has property does the person exist as reason [*Erst im Eigentume ist die Person als Vernunft*].

(PR: §41Z)⁷

One cannot overstate the generality of this claim, nor its modernity: property just is the way the world appears to us when we approach it from the perspective of a self-conscious subjectivity that knows itself to be the source of value. Property is not this bit of the world or that bit of the world; rather, the world as such comes into view under the description of it as property once we have achieved this self-conception. It is not so much an example of constructivism but rather the world seen through a constructivist lens. This gets us quite close to Ripstein's Kant, where the very absence of restrictions on proper ends is supposed to generate the fullness of the property right. And as in Fichte, there is a grounding of property rights in the very conditions of rational self-consciousness. But instead of then turning either to a general conception of independent choice (Kant) or to a necessary end (self-preservation in Fichte) to begin to give shape to that right, Hegel turns back to reason and particularly the forms of judgment inherent in reason.

Specifically, he turns to the different kinds of judgments of quality (positive, negative, infinite) as a means to spell out what must be involved in the property right (*PR*: §53; cf. *EL*: §§172–3). The way that a piece of property is judged *positively* is by possessing it, *negatively* by using it, and *infinitely* by alienating it. That is, in possessing the thing I identify my subjectivity positively with it; in using the thing I express the superiority of my subjectivity to this mere thing; and in alienating the thing I express the lack of connection of the thing to my subjectivity. One noteworthy aspect of this argument structure in comparison with Kant and Fichte is that the means–end relationship of property only comes in through the negative judgment. The teleological character of the ownership relation is thus an implication of a more basic (or at any rate more general) feature of any rational relationship to a thing, namely the negative judging of it as determined by my subjective attitude towards it. But this also means that there are more aspects of finite rational agency that provide resources for specifying the property right than the means–end relation that distinguishes true choice from mere wish in Kant or the pick-a-necessary-end strategy of Fichte.

In fact, Hegel purports to derive more of the characteristically modern conception of property rights than Kant before any discussion of public law, and furthermore out of the Fichtean requirement that reason be actualized in the world. Out of the affirmative judgment he derives various ways of taking possession (*PR*: §§54–8). Out of the negative judgment he derives the co-extension of full use and ownership (and thus the right to exclusion) (*PR*: §§61–2), as well as ownership of value (and thus rights to compensation) (*PR*: §63). Out of the infinite judgment he derives rights to transfer (and exchange) (*PR*: §65). If one takes the rights of use, exclusion, transfer, and compensation to constitute the core sticks in the modern property rights bundle, then Hegel purports to have an argument for that bundle that hinges neither on the form of

choice nor the end of self-preservation but simply on what is required for the free will to judge that some part of the world is its own.

Let's stop and take stock according to our questions about constructivism. First, the procedure is clearly regressive rather than progressive. Though there is no space to go into detail here, Hegel in the Introduction to the *Philosophy of Right* has already set out the rudimentary structure of the will as idea, and the argument here works as a regress on the possibility of that idea (*PR*: §§25–6; Yeomans 2015: 82–95). As in so many of Hegel's arguments, the actual argumentative step is short (one step, as I have reconstructed it earlier), but then Hegel asks us to reflect on what is embedded in that step and relies on other arguments to unfold what is embedded. Here, he relies on prior arguments about the categories of reason to specify what it means that property is the world qua objectivity for the rational will.⁸

Second, at least as concerns the initial discussion of property in Abstract Right, the agreement is modal rather than indicative or hypothetical: "With reference to *concrete* action and to moral and ethical relations, abstract right is only a *possibility* as compared with the rest of their content, and the determination of right is therefore only a *permission* or *warrant*. For the same reason of its abstractness, the necessity of this right is limited to the negative – *not to violate* personality and what ensues from personality" (*PR*: §38, emphasis in original). There is no question yet of implicit or hypothetical agreement. Hegel's point in showing us what is embedded in our judging of the world is not to show us that we already agree to this treatment of the world but that what we call property is already a consideration of the world under this description.

Third, as to the question of whether the relevant facts are social or counterfactual, I have stopped the argument before we have reached enough of it to truly answer it. There is nothing counterfactual here, but the social aspect actually doesn't make its appearance for some time, when one comes to the discussion of Ethical Life. One does get contract, crime, and punishment further on in Abstract Right, but the problems discovered in them (particularly in punishment) actually seem to show that they are being considered intersubjectively rather than socially. That is, they are considered in terms of bargaining scenarios rather than in terms of the institutions that make such scenarios possible. There is a long argumentative road to travel between these arguments and the arguments about social institutions, but there is an important sense in which this road is traveled by means of metaethical arguments. What I mean by this is that the very limitations pointed out by Hegel in contract, punishment, and then moral reasoning all show that such non-institutional practical contexts are inadequate as devices for generating objective practical norms concerning property rights (including rights to one's body).

Fourth, the norms of property offered here are obviously taken by Hegel to be objective, though the very insistence on those norms as specifying the way subjectivity controls or is dominant over objectivity make it hard to see as any kind of realism, at least if realism is taken as a claim that the values are “out there” somewhere.

Finally, let us come to the infallibility objection. In comparing Kant and Fichte we came to a dilemma, in which it seemed that the constructivist either had to abandon the notion that we are sources of the norms of historically specific institutions or to abandon the notion that reasonable people can disagree about those norms.⁹ It is initially hard to know how to locate Hegel with respect to this dilemma, but here is a start: on his account, it turns out that the norms of those institutions have a more general orientation than one might have thought, and so it makes more sense than might have initially seemed plausible to think *both* that these are norms about which there is a demonstrable, objective truth *and* that we might be their source. What I mean is this: Hegel doesn’t distinguish between the categories of theoretical and practical reason – this is why it is wrong to consider Hegel’s *Logic* as his theoretical philosophy. The basic logical, or, if you like, metaphysical categories do more to structure the practical treatment of the world than one might have expected (cf. Nuzzo 2017). This is, of course, analogous to the Kantian strategy played up by Ripstein, in which (apparently theoretical) intuitions of space and conceptions of force and substance generate novel incompatibilities and thus real rights to specific features of the actual world such as land. But it is particularly significant that in his derivation Hegel chooses forms of judgment (i.e., necessary modes of the subjective relation to objective reality.)¹⁰ I think for this reason it makes sense to think of Hegel’s procedure with respect to the justification of property relations as constructivist, because the source of the norm that controls the property relation and specifies owners’ rights is a necessary structure of self-consciousness.¹¹ Of course, there is much more historical specificity in Hegel’s treatment of property in *Ethical Life*, but even in *Abstract Right* there are specific, and specifically modern features of property that Hegel purports to derive directly from these features of judgment.

3. Historical Constructivism

The differences in Kant’s, Fichte’s, and Hegel’s constructivism are essentially *historical* differences. I mean by this not that there is a progression from one to another to another, but rather that each philosopher constructs a doctrine of property from a distinctive and identifiable social perspective that nonetheless opens out onto the perspectives represented by the others. Their difference is historical in a synchronic rather than diachronic sense, for it is precisely the tension between these different perspectives that defines the field of the present which the philosophers

sought to understand and in which to intervene. That is, historicity is paradigmatically the field of tension at any particular time rather than change over time.

Before taking up the social nature of the positions, I want to begin with their thematic differentiation. Here we can say that modern philosophers in general, and eighteenth- and nineteenth-century German political theorists in particular, approached the problem of property simultaneously from juridical, economic, and political perspectives.¹² From the juridical perspective the most important feature of property is the way that it helps to specify enforceable protections for personal autonomy. From the economic perspective, the most important feature of property is its flexibility (i.e., the way that different sorts of ownership relations can be developed which correspond to and enable the growth of commerce). From the political perspective, property serves as a cornerstone in the construction of a liberal state with greater political participation by equal and independent citizens. From the early modern period through the present day,¹³ these three perspectives constitute the field of tension within which the institution of property becomes visible as an object of public debate.¹⁴ They represent the fundamental interests to which that institution is responsive.

Against this background Fichte appears most clearly as proceeding from the political perspective. From the beginning, his emphasis on the way that property allows each citizen to provide for himself and his family by work is oriented by the notion that only such economic independence could provide the basis for independent citizenship. In both the *Foundations of Natural Right* and even more so the *Closed Commercial State*, Fichte is deeply attentive to the relation between economic self-sufficiency and political independence, and shows a willingness to bite quite deeply into economic structures and development in order to secure that self-sufficiency and thus that independence.¹⁵ But, of course, the very emphasis on political issues brings economic issues to the fore, even if economic goals like growth and free trade are held to be subordinate to political goals. Also present, but to a lesser extent, is the juridical perspective on personal autonomy. This is paradoxical given the starting point in individual efficacy, but that efficacy is very quickly rendered in socially visible and economically intertwined ways. Thus the promise of property for radically particular personal freedom fades from view despite its initial prominence.

Hegel's doctrine of property is most clearly juridical. Private property is a radically direct extension of the self in a way rejected by both Kant and Fichte, and wrong is understood by Hegel as an injury to the will embodied in the object damaged. The emphasis on the absolute nullity of objects as such, and the corresponding importance of the right of first occupancy, express most fully that infallibility of the property owner discussed in the previous section. The political aspect of property

is also present from Hegel's viewpoint, even before the introduction of state institutions. Among other places, this can be seen in the variety of legal determinations concerning forms of wrong that Hegel attempts to validate simply on the basis of reflection on the ways that different wills can fail to be truly united in the disposition of goods. To this political question Hegel once again applies the forms of qualitative judgment: whereas contract represents a positive judgment between the parties, unintentional (civil) wrong represents a negative judgment and crime an infinite (negative) judgment (*PR*: §§85, 88, 95). Furthermore, there is (as in Kant) already a derivation of the right to punishment or coercion, but for Hegel this right is further spelled out as a right of revenge. There is, in other words, already a nascent political society within Hegel's Abstract Right which centers around the maintenance of the boundaries of spheres of rights in the face of violations. In contrast, economic considerations don't enter into Hegel's discussion of property in Abstract Right much at all. This fact is crucial to his later modifications of property doctrines in Ethical Life, since it helps to make the case that the economically significant forms of property are already modifications of the abstract right to property effected by state intervention, as opposed to the view that the economically significant forms of private property are themselves natural rights that are then injured by state intervention.¹⁶

In interpreting Kant's doctrine, Ripstein also presents Kant as a juridical thinker. But as I suggested earlier, that saddles Kant with an impossibly ambitious argument. I think it best to interpret Kant's PPRR along the lines suggested by Westphal, according to which it simply rejects any general principles which would put any type of object outside the set of legitimately possessable objects. Similarly, its formality also entails the rejection of any general principles which would put any type of end outside the set of legitimately pursuable ends with respect to which objects can be identified and used as means. This is central to the economic perspective, which for the growth of commerce requires not a particular form of the property relation – not even full and complete ownership according to the central incidents of the modern property bundle – but rather a flexible and formal conception of ownership which might be modulated in a thousand different ways as appropriate for different sorts of commercial relations. From the economic perspective, the conceptual poverty of the idea of property is its central virtue. Once the economic perspective is seen to be primary, we can see the way that the juridical approach comes in as secondary and tempts readings like Ripstein's. Precisely for this sort of multiple specification of the property right, the right of particular persons to put objects to their own ends for their own reasons is crucial. This is the engine of creative destruction, to use Schumpeter's phrase. The more formally the property right is described, the more these particular uses fade from legal and political view. As a result, the political element recedes from view and there

are great difficulties in understanding what the constraints of public law mean for the actual exercise of property rights, and Kant notoriously rejects any requirement of actual political participation in the legislation of the regulatory scheme.

Thus, each of these three German constructivists approach the topic from a predominant perspective: juridical, economic, or political. One of the remaining two perspectives is clearly present but the second of the remaining perspectives is far less clearly present or perspicuous. So much, then, for the thematic differences in the perspectives of our three philosophers. Now I want to say just a bit about the social differences so as to bring out the way in which these thematic differences are historical differences. These patterns of clarity and obscurity are not a matter of idiosyncratic taste or blindness, but are rather constitutive of the social interests that animate the perspectives on the institution of property.

This is important for constructivism because the modal question of that to which we could or could not agree is a historical question articulated by the different social personae whose agreement is in question. Hegel himself has a historical theory of the social perspectives to which the institution of property appears. In this theory the different historical perspectives which are involved in the question of that to which anyone *could not* agree are defined by the estates structure of *Sattelzeit* Germany (1770–1830).¹⁷ The answers to basic questions surrounding the meaning of property relations differed substantially *and reasonably* according to the social position of persons. These social positions are neither idiosyncratic nor defined by class. There is, of course, a substantive debate about the proper taxonomy of these positions; but the estates structure proposed by Hegel would be a serious alternative in that debate at the level of reconstruction required by a historical constructivism. The three basic estates Hegel identifies are the public estate (civil service), the commercial estate (civil society), and the agricultural estate (both peasantry and nobility but quite optimistically family farmers) (*PR*: §§199–208).¹⁸ Let us then take Hegel's social theory and use it to understand the debate between Fichte, Kant, and Hegel.

Here it is, I think, quite easy to see Kant's economic approach to property as proceeding primarily from the perspective of the commercial estate. The flexibility provided by a minimal notion of property is just the mixture of warrant and protection from interference that developing industries required. It is also quite easy to see Fichte's political approach as representative of the public estate. One of the great hopes of the bureaucrats was the creation of a society with as many property holders as possible, and intensive planning and coordination efforts by the state were seen as requisite to make this happen. It is perhaps a bit more difficult to see Hegel's juridical perspective as the representative of the agricultural estate. The key is to see just how personal and how particular the rural claims to property were. One can speak in generalizations, of

course, but in actual fact the different sorts of divided ownership relations that characterized rural property in the context of personal relations between villagers and manorial lords was extraordinarily varied and yet locally quite fixed. Rural property shared the *variation* typical of commercial conceptions of property but not its actual *variability*, so to speak.¹⁹

I mention these estates only to immediately move beyond them. These are clearly not the social perspectives with respect to which a contemporary constructivism should proceed. But it is crucial to Hegel's own constructivism that determinate social perspectives be brought into play. To some degree this is obscured both by my reconstruction (which stops at Abstract Right) and by the outline structure of the *Philosophy of Right*. But lecture manuscripts and remarks concerning the more specific modulations of the institution of property in Ethical Life make clear that presenting the institution of property as reasonable to these perspectives is an essential part of their justification. A Hegelian constructivism for the present day would have to do some sociological work to uncover the analogous social perspectives for contemporary society. In doing such work, a Hegelian constructivist can be guided by the final layer of this field of tension, namely the conceptual.

I mean "conceptual" in Hegel's distinctive sense of the term. In that sense, anything conceptual is constituted by the interpenetration of three different aspects: the universal, the particular, and the individual. Though terms like "interpenetration" and "aspects" have an uncomfortably metaphorical ring to them, the aspects are best understood by doubling down on the visual metaphor and interpreting the universal, the particular, and the individual as perspectives to which any actuality appears.²⁰ But the way to understand Hegel's idealism as an idealism is as the claim that it is perspectives all the way down, and the actualities which appear are the ways in which each perspective is visible to the others. Since I have articulated and defended the view elsewhere, here I will only briefly discuss how it plays itself out with respect to property rights.

Fichte's predominantly political perspective on property is, conceptually speaking, the individual perspective. He tries to understand, first and foremost, how the different spheres of freedom can fit together in the right way so as to be stable and perceptible. The society as an individual entity is in the center of focus, and the *Closed Commercial State* is like a German hometown writ large. Furthermore, the property right protects activities first and foremost, and activities are associated by Hegel with individuality. From this individual perspective Fichte can also make out the universal perspective (i.e., the economic perspective). But there is some distortion here, and the economic features of property are primarily rendered in terms of the household. This is a sort of ancient understanding of economics as the Greek etymology suggests – household management. And in the end, the juridical side cannot be clearly brought

into view. It remains a kind of caricature, and the personal freedom the juridical approach aims to protect collapses under the paternalism of the state. Conceptually speaking, this is the inability of the individual perspective to bring the particular perspective clearly into view.

Kant's predominantly economic perspective is, conceptually speaking, the universal perspective. This is exactly what makes his treatment so formal and allows for the diametrically opposed conclusions from that formality represented by Ripstein and Westphal. This corresponds to the very rudimentary and thus slippery nature of the concept of property as a social meaning in the *Sattelzeit*. From this universal perspective Kant can make out the particular, juridical perspective (this is precisely what tempts Ripstein's interpretation). The way in which external objects serve as means for a whole variety of specific ends is clearly seen, though it is rendered rather generally in terms of spatiotemporal incompatibilities. But the individual, political perspective is rendered as a caricature of politics without political participation and only tenuously connected to the private right to property.

Hegel's predominantly juridical perspective is, conceptually speaking, the particular perspective. In the center of focus is the direct connection to and even extension of self in the object. The most particular and personal of all external connections – that between the individual person and their body – is made the model for all property relations, and indeed for the basic normative approach to external objects. From this particular perspective a certain coherent system of rights – to possession, use, and alienation – can be made out, which is the way that the individual, political perspective is brought into view. But the universal perspective is more difficult to bring into view. This is what gives rise to the Lockean problem of a cycle of revenge at the end of the discussion in Abstract Right – there is no universal criterion or even conception of impartiality for resolving disputes. Instead of that impartiality one has crime, which is a sort of caricature of ownership.

The three preceding paragraphs simply take the talk of thematic perspectives and parse them in conceptual language. But it is valuable because it helps to see how we might reconstruct a Hegelian constructivism for our own historical moment. In my view, what makes Kant, Fichte, and Hegel philosophers rather than simply apologists for a certain class position is that all of the three historical perspectives show up in each of their work, and the differences between them are largely a matter of emphasis.²¹ These are not insignificant differences, but the explicitness with which all three of the perspectives show up in each creates the tissue of an engaged conversation and presents a series of views onto the complete phenomenon of property relations. Because the historical perspectives are embodiments of necessary conceptual perspectives, this series of views is a process of conceptualization of the object. On the Hegelian view, the debate is a necessary part of that conceptualization.

This is the critical-theoretical aspect of Hegelian constructivism, where the debate joined is already a part of the social actuality of the object of critique. This is also what makes the constructivism historical, again in a more synchronic rather than diachronic sense of “historical.” That is, historicity is paradigmatically the field of tension at any particular time rather than change over time.

The point here is that the philosophical field of tension between Kant, Fichte, and Hegel presents in conceptual form the social field of tension that constituted their historical moment. With respect to the concept of property, that field took the form of a hopeful anticipation of a future political system in which the coherence and mutual significance of personal, economic, and political freedom would be validated. We now know that this hope was in vain, but that doesn’t make this hope either unreasonable at the time nor any less central to reconstructing German Idealist conceptions of property.²² It does mean that in this case we are stuck with the choice between archaism and anachronism. Since the concept of property is of no use to us now in organizing the normativity of either our economic or political relations, and of questionable use in organizing that of our personal autonomy, the choice of archaism is clear. It is a misrecognition of our own historical moment to think that such hopes as were articulated in the modern philosophical debates on property reveal the outline of our own field of tension. This is true not only of the social form of those perspectives (the estates) but also perhaps of their thematic form. It is far from clear to me that the juridical, the economic, and the political identify the requisite perspectives with respect to which the successor institution to property ought to be justified.

What does this have to do with constructivism? Importantly, there is nothing in the foregoing considerations that invalidates constructivism as a metaethical view. Rather, I have read Hegel as providing a social theory that more fully articulates the terms of the ethical debate between Kant, Fichte, and Hegel, and which therefore has some of the character of a metaethical account. *The modal question of that to which we could or could not agree is, essentially, a historical question.* But a distinctively Hegelian constructivism would retain the structure of the three perspectives as constitutive of the viewpoints with respect to which the possible agreement (or necessary disagreement) on specific norms is to be investigated. Obviously, neither estates nor classes can specify the three personae whose agreement or disagreement is in question, but that doesn’t mean that a new constructivism attentive to the current social perspectives on autonomy wouldn’t be a valuable approach to ethical problems. Such a constructivism would back up to the conceptual level of perspective, and then do the sociological work of identifying the social perspectives that embody those conceptual perspectives in extant social institutions (Yeomans and Litaker 2017).

For example, if one backs up to the general conceptual perspectives (universality, particularity, and individuality) and then approaches

contemporary economic life, one can make out three intertwined institutions that embody those perspectives: banks, markets, and enterprises (firms). And if one pushes a little further on the subjective side of the connective tissue, one can see different forms of agency being exercised in those institutions: accounting agency, consumptive agency, and productive agency. And if one then backs up a little – not all the way to Hegel’s conceptual perspectives but to his conception of self-determination (Yeomans 2015) – one can see these forms of economic agency as forms of self-appropriation (accounting), specification of content (consuming), and effectiveness (production). And the (political) point of all of this would be to describe the immanent norms of these institutions that enable these forms of agency and therefore provide the basis for critical evaluation of the functioning of those institutions. These norms would be the objective norms justified by a *historically* constructivist argument in the sense that they would describe (as their obverse) that to which economic agents could not agree on pain of ceasing to be economic agents.

Now one might complain that such a procedure (as well as the level of analysis of the German Idealists earlier in the chapter) is not properly metaethical. My sidestepping the realism/antirealism debate may only deepen this impression. It is certainly true that if that term is taken to imply a step outside of the practice of the justification of norms to an independent standpoint from which that practice can be its object, one cannot find such a standpoint within the German Idealists. On this point, to be an idealist is hold that there is no outside of the practice of justification, and thus that there is no metaethics in that sense. That puts a lot of pressure on the inside of the practice, of course, but here the German Idealists had a lot to say. The most important thing to say is that there are multiple internal standpoints within this practice, and this is a virtue of the theories rather than a vestige of faculty psychology. Those internal standpoints provide the model not only for intersubjectivity but for real sociality (Yeomans 2019a), and this is what allows for the bridging of the gap between reason and history.

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Notes

1. For a parallel treatment of the family in German Idealist political philosophy, see Yeomans (2018).
2. I leave out of consideration the placement of German Idealist constructivism with respect to the realism/antirealism split. I remain unpersuaded of the

- value of this distinction for ethics, despite the impressive efforts of Robert Stern (2007) and Sebastian Ostritsch (2014).
3. On Westphal's view, Kant and Hegel are natural law theorists because they share a set of common problems with the natural law tradition ("the normativity and objectivity of justice, the possibility and necessity of social cooperation [resolving fundamental social conflict] and the possibility of legitimate possession") (Westphal 2007: 37).
4. Laitinen does not distinguish between objectivism and realism because he takes any objective reason to be a reason independent of the agent and thus a reason located in a separate domain (e.g., Laitinen 2016: 132).
5. Citations to Kant's *Rechtslehre* are to volume and page number of Kant (1902). Translations (with some modifications) are from Kant (1999).
6. Citations to Hegel are by section number to his *Grundlinien der Philosophie des Rechts*, volume 7 of Hegel (1970). Translations (with some modifications) are from Hegel (1991).
7. Hegel's seriousness about the extent of this infinity is further displayed by the way that he adduces our attitude towards property – in particular, our acceptance of the legitimacy of possession of any external thing – as an *argument* against transcendental idealism (*PR*: §44).
8. There are other arguments that strike me as progressive, such as the Lockean argument that takes one from Abstract Right to Morality, which hangs on the impossibility of adequate protection of rights in the absence of an impartial arbiter.
9. I leave out of consideration here the question of whether Hegel's central claim that the will is embodied in the property object is tenable. Obviously, Kant thought it nonsense (6:260). For my own part, I find Dudley Knowles's (1983) defense of the notion convincing.
10. There is a further question that I put aside here, which is: why these categories rather than others?
11. Cf. Thompson (2018).
12. Compare Dieter Schwab's entry on *Eigentum* in Brunner, Conze and Koselleck (2004, vol. III: 65–115).
13. For a contemporary example of the juridical perspective, see Benson (2002). For a contemporary example of the political perspective, see Christman (1994). For a contemporary example of the economic perspective, see Posner and Weyl (2018).
14. The notion of a historical moment as a field of tension comes from Reinhart Koselleck and Werner Conze.
15. On this point see Nakhimovsky (2011).
16. In fact, Hegel introduces a completely different term for the economic resources that are the subject of ownership interests (*Vermögen*), as opposed to private (personal) property (*Eigentum*).
17. For a more detailed account of Hegel's theory of the estates and its philosophical significance, see Yeomans (2017).
18. A detailed treatment and connection with Hegel's philosophy of action presupposed here can be found in Yeomans (2015).
19. There is an abundance of good detail on these points in Schwab's entry on *Eigentum*, op. cit.
20. For details, see Yeomans (2019b).
21. In contrast, one might take up one of the perspectives *to the exclusion* of all others: one can defend a coherent conception of property along these lines that dispenses entirely with the economic and political dimensions. In some respects Peter Benson's defense of a juridical conception of property borders

on this exclusivity (though it does not cross that line – Benson (2002) is no mere apologist but offers a *philosophy* of property). In an account that is remarkably close to Hegel's, Benson's notion of property is entirely identified with first occupancy (for Hegel, the right of a subject over mere objectivity). Possession, use, and alienation are conceptually derived from the conditions of that first occupancy in a similar way as Hegel (though using a somewhat different vocabulary). Economic features of the common law of property are then grounded not in the idea of property at all but rather in the idea of contract. Political features are then considered to be a part of public law. Putting aside the political features, there are two main difficulties. First, the resulting conception of property is conceptually coherent but existentially uninstantiated. For example, no one has the right to alienate their property in Benson's sense of simply abandoning ownership – even trash must be contractually transferred. Second, the concept of contract is even more subject to the pressures towards disaggregation into a bundle that looks more like a heap. This, of course, is the upshot of the "death of contracts: literature. See Gilmore (1995) and Mirabito and Snyder (2014).

22. Reinhart Koselleck is quite good on why this hope was dashed: the legal reforms championed in one way or another by the German Idealists presupposed the society that only those reforms could first create. But that circle didn't close, because the rights that would have had one extension in the society to be created had another extension in the transitional society (e.g., rural property rights designed for family farms were instead primarily held by large landowners). When those rights were granted in the transitional society, they led social and economic development in a different direction and produced a society quite different than the one presupposed by the reforms. See, e.g., Koselleck (1967: 168).

References

- Benson, P. (2002). Philosophy of Property Law, in J. Coleman and S. Shapiro (eds.) *The Oxford Handbook of Jurisprudence and Philosophy of Law*. Oxford: Oxford University Press, 752–814.
- Brunner, O., W. Conze and R. Koselleck (2004). *Geschichtliche Grundbegriffe*. Stuttgart: Klett-Cotta.
- Christman, J. (1994). *The Myth of Property: Toward an Egalitarian Theory of Ownership*. Oxford: Oxford University Press.
- Fichte, J.G. (2000). *Foundations of Natural Right*, ed. F. Neuhouser, trans. M. Baur. Cambridge: Cambridge University Press.
- Gilmore, G. (1995). *Death of Contract*, 2nd edn. Columbus: Ohio State University Press.
- Hegel, G.W.F. (1970). *Theorie Werkausgabe: Werke in zwanzig Bänden*, ed. E. Moldenhauer and K.M. Michel. Frankfurt a.M.: Suhrkamp.
- . (1991). *Elements of the Philosophy of Right*, ed. A.W. Wood, trans. H.B. Nisbet. Cambridge: Cambridge University Press.
- James, D. (2010). Fichte's Theory of Property. *European Journal of Political Theory* 9(2): 202–217.
- . (2012). Conceptual Innovation in Fichte's Theory of Property: The Genesis of Leisure as an Object of Distributive Justice. *European Journal of Philosophy* 23(3): 509–528.
- Kant, I. (1902). *Gesammelte Schriften*. Berlin: De Gruyter.

- . (1999). *Practical Philosophy*, ed. and trans. M.J. Gregor. Cambridge: Cambridge University Press.
- Knowles, D. (1983). Hegel on Property and Personality. *Philosophical Quarterly* 33(130): 45–62.
- Koselleck, R. (1967). *Preussen zwischen Reform und Revolution: allgemeines Landrecht, Verwaltung und soziale Bewegung von 1791 bis 1848*. Stuttgart: Klett.
- . (2003). *Zeitschichten: Studien zur Historik*, 4th edn. Frankfurt a.M.: Suhrkamp.
- Laitinen, A. (2016). Hegelian Constructivism in Ethical Theory?, in I. Testa and L. Ruggiu (eds.) “*I that is We and We that is I.*” *Perspectives on Contemporary Hegel: Social Ontology, Recognition, Naturalism, and the Critique of Kantian Constructivism*. Leiden: Brill, 127–146.
- Mirabito, A.M. and F.G. Snyder (2014). The Death of Contracts. *Duquesne Law Review* 52: 345–413.
- Nakhimovsky, I. (2011). *The Closed Commercial State: Perpetual Peace and Commercial Society from Rousseau to Fichte*. Princeton: Princeton University Press.
- Nuzzo, A. (2017). The Relevance of the Logical Method for Hegel’s Practical Philosophy, in T. Brooks and S. Stein (eds.) *Hegel’s Political Philosophy: On the Normative Significance of Method and System*. Oxford: Oxford University Press, 103–123.
- Ostritsch, S. (2014). *Hegels Rechtsphilosophie als Metaethik*. Münster: Mentis.
- Posner, E.A. and E.G. Weyl (2018). *Radical Markets: Uprooting Capitalism and Democracy for a Just Society*. Princeton: Princeton University Press.
- Ripstein, A. (2009). *Force and Freedom: Kant’s Legal and Political Philosophy*. Cambridge, MA: Harvard University Press.
- Stern, R. (2007). Freedom, Self-Legislation and Morality in Kant and Hegel: Constructivist vs. Realist Accounts, in E. Hammer (ed.) *German Idealism: Contemporary Perspectives*. London: Routledge, 245–266.
- Thompson, M.J. (2018). The Metaphysical Infrastructure of Hegel’s Practical Philosophy, in M.J. Thompson (ed.) *Hegel’s Metaphysics and the Philosophy of Politics*. New York: Routledge, pp. 101–141.
- Westphal, K.R. (2002). A Kantian Justification of Possession, in M. Timmons (ed.) *Kant’s Metaphysics of Morals: Interpretive Essays*. Oxford: Oxford University Press, 89–109.
- . (2007). Normative Constructivism: Hegel’s Radical Social Philosophy. *SATS – Nordic Journal of Philosophy* 8(2): 7–41.
- Yeomans, C. (2015). *The Expansion of Autonomy: Hegel’s Pluralistic Philosophy of Action*. New York: Oxford University Press.
- . (2017). Perspectives without Privileges: The Estates in Hegel’s Political Philosophy. *Journal of the History of Philosophy* 55(3): 469–490.
- . (2018). Family Structures as Fields of Historical Tension: A Case Study in the Relation of Metaphysics and Politics, in M.J. Thompson (ed.) *Hegel’s Metaphysics and the Philosophy of Politics*. New York: Routledge, 227–251.
- . (2019a). Hegel’s Pluralism as a Comedy of Action. *Hegel Bulletin* 40(3): 357–373.
- . (2019b). Perspective and Logical Pluralism in Hegel. *Hegel Bulletin* 40(1): 29–50.
- Yeomans, C. and J. Litaker (2017). Towards an Immanent Conception of Economic Agency: Or, A Speech on Metaphysics to its Cultured Despisers. *Hegel Bulletin* 38(2): 241–265.

10 Critical Agency in Hegelian Ethics

Social Metaphysics Versus Moral Constructivism

Michael J. Thompson

1. Introduction

Conflicting interpretations concerning Hegel's conservatism and radicalism have been with us since his death. The question as to whether or not moderns are to reconcile themselves to their social world or to change it into that which is rational remains a crucial legacy of Hegel's thought. Today, an increasingly more domesticated and restrained Hegel has emerged from the Anglo-American reconstruction of his thought over the past several decades. Centered on the centrality of our social practices and intersubjective forms of reason-giving, this Hegel avoids this central philosophical question of the centrality of social critique in practical reason. I am convinced that we should not rest with this domesticated reconstruction of his thought. Rather, I think we should insist on an interpretation of Hegel's ideas that stays true to his project to find a path for modernity that would create a new form of ethical life that reconciled self-conscious agency with the social-relational nexus of the common good (see Zöller 2015).¹

With this in mind, I would like to defend the thesis that Hegel possesses a critical theory of practical agency, one based not on a constructivist form of practical reason but rooted in the fundamental social-relational substance of human life. On this interpretation, the individual achieves a truly rational, and hence critical, form of agency when they grasp the conceptual structure that undergirds its relational sociality with others as the concrete, ontological forms of life that enhance its own capacity for self-realization. For Hegel, a rational, free subject is not simply "responsive to the space of reasons" – reasons themselves must have metaphysical ballast to achieve rational validity as well as free personhood; reasons possess a metaphysical structure that allows the mind and objective reality to share the same structure and therefore overcome the problem of estrangement and diremption. Valid, rational reasons for our actions as well as what should command our obligations must be those that share and reflect the metaphysical-conceptual structures of social interdependence and purposes that cultivate and promote the self-realization of all

agents. Rationality, as Hegel demonstrates, cannot be conceived simply as what is agreed upon through pragmatic means within an intersubjective community. Rather, the reasons we give are valid to the extent that they adhere to specific conceptual structures that become objectified in the world.

When it comes to normative reasons, or reasons that should count in practical affairs, this means that valid reasons are those that have the conceptual structure of human sociality in view. Hegel's argument suggests that modernity is the state of living as a rational, critical agent who inhabits social relations, social processes, and purposes that promote and conform to a common good (i.e., a form of life that is interdependent, cooperative, and which enhances and produces rational agency). For Hegel, the social totality can only be rational when its metaphysical properties – that is, the conceptual structures that constitute it as a distinct ontological entity – are organized according to the articulation and maintenance of rational agents, agents with self-consciousness that their self-realization is interdependent with the self-realization of others.²

Hegel therefore suggests not only a theory of rational agency, but more importantly, a theory of *critical* agency. The good achieves rational validity, actuality in its most basic sense, when it is objectified in the actual social-relational structures and processes of our social reality itself. It is upheld by rational agents that see the ways that certain norms, institutions, and practices embody and objectify their freedom. It is, in this sense, an ontological and realist account of the good that each individual upholds, not merely a discursive or recognitive one. The constructivist account of ethical life shears off too much substance from the richer account Hegel is offering. The reason this is important is that a metaphysics of our sociality seems to me to be at the heart of what a self-consciously free ethical life actually is. But it also gives us a deeper substantive means by which practical reasoning can be grounded. When aspects of our social world are out of sync with the metaphysical-conceptual framework of free ethical life, then agents must have the capacity to achieve critical insight into those defective institutions and practices. Lacking this central thesis, Hegel holds out very little hope for us as moderns (i.e., as members of a free community endowed with the capacity for critical reflection).

The importance of this thesis seems to me worth stressing. One reason is made obvious by the emergence and intensity of social and individual pathologies in contemporary “modern” societies. Problems of alienation, exploitation, social domination, and defective forms of social relations and ethical agency only seem to be deepening in an age of commodified market capitalism and the spread of technological, instrumental rationality. The result has been the emergence of ethical nihilism no less than moral relativism and a decided turn against the theories of universality and common good that Hegel would have seen as the hallmarks of

a modern, free political culture. Liberal societies have been essentially unable to resist the centrifugal pressures of modern processes associated with technological, industrial, consumptive cultures that are no longer producing the requisite forms of ethical life that can sustain and nourish the robust form of freedom he had in view.

2. Constructivism and Postmetaphysics in Modern Ethics

According to the post-metaphysical paradigm, all valid forms of practical reason need to be understood as emanating from us as rational, intersubjective agents. The basic kind of rationality that we possess grants us the capacity to formulate valid norms binding on ourselves, as both individuals and as a community. This constitutes a basic political conception of reason. As John Rawls lucidly points out:

[C]itizens are viewed as having the intellectual and moral powers appropriate to that role, such as a capacity for a sense of political justice given by a liberal conception and a capacity to form, follow, and revise their individual doctrines of the good, and capable also of the political virtues necessary for them to cooperate in maintaining a just political society.

(Rawls 1993: xlv–xlvi)

At the root of this view is the thesis that rationality is integrated into procedures of justification and agreement, on the notion of a pragmatic conception of reason.

Metaphysics therefore has no place in this way of thinking since there is no longer a need for any external or foundational concept or set of doctrines that grant our normative claims validity. Even more, any metaphysical doctrine is considered problematic because it imposes a normative-conceptual scheme on others without their agreement and is seen as incompatible with the rational autonomy of agents. The crucial move toward the post-metaphysical approach to constructivism is therefore the capacity of agents to generate norms binding on the community through reasonable agreement among all participants (Rawls 1985). It is, in this sense, not the *substance* of the moral views that is central in the constructivist account but, rather, the *procedures* used to obtain a regime of agreement that is normatively binding. The problem with this view, as I see it, is that it cannot guard against the problems of ethical or epistemic *relativism*, nor can it secure itself against the pressures of *reification* that will render either the “space of reasons” or public deliberation a mere reflection of what is already in existence. I think these two problems render the project of moral constructivism – whether in its Kantian or Hegelian manifestations – defective and have shifted attention from

the more compelling and richer way of thinking about practical agency that a metaphysical approach can provide.

2.1. Kantian Moral Constructivism

Thinkers from Rawls to Habermas, despite their various differences, have put forth post-metaphysical theories of moral constructivism along Kantian lines that share in the basic premise that norms are valid once they have passed through some kind of procedure of rational agreement and endorsement. They also share the view that ethics must shift its focus away from the realism of moral values and toward the practices and procedures used to adjudicate moral agreements. Here the Kantian element is one where procedures of justification produce valid norms that are binding on rational persons. Worries about an exaggerated formulation of rationality, of a projection of reason into external structures of nature, God, or history led to a return to Kant's philosophical project of seeing reason not as embodied in things but rather as a kind of public activity of the giving and taking of reasons (*Publizität*). The central problem that constructivism was meant to address was that of pluralism: how can we articulate norms to which others from differing moral background beliefs can commit? Rawls turned to Kant to build a solution to this problem: "What distinguishes the Kantian form of constructivism is essentially this: it specifies a particular conception of the person as an element in a reasonable procedure of construction the outcome of which determines the content of the first principle of justice" (Rawls 1980: 304).

The key move here for Rawls was to see that Kant provided the framework for a kind of rational form of justification that was inherently public and therefore capable of justificatory power.³ The development of this paradigm by other Kantians also pushed further a distinction between the realism of moral values on the one hand and the realism of the procedures used to adjudicate moral values on the other. Hence, realism is shifted away from any kind of metaphysical claim about moral values and norms as well as any metaphysical variable that could be used to grant them validity onto the practices of moral agreement. Instead, the objective, rational validity of normativity is to be found in a "procedural realism." As Christine Korsgaard explains:

As long as there is some correct or best procedure for answering moral questions, there is some way of applying the concepts of the right and the good. And as long as there is some way of applying the concepts of the right and the good, we will have moral and more generally normative truth. Statements implying moral concepts will be true when those concepts are applied correctly.

(Korsgaard 1996: 35; see also Lafont 2002)

Reasons are therefore understood to be reflexive and capable of self-correction based on the exchange of reasons structured by the procedure. The validity that our reasons come to have is rooted in the procedures of reason-exchange and intersubjectivity that reflexively correct for normative errors over time. The problematic assumption in Kantian constructivism, for one, is that it seeks to emancipate moral reasoning from any metaphysical assumptions.⁴ This is a mistake, as I will seek to show later. For Hegel, human beings are essentially social; their social relations are the very substance of their social reality, shaped and reworked into different ontological forms through history.

2.2. *Hegelian Ethical Constructivism*

A similar interpretive scheme has also been used in the reconstruction of Hegel's philosophy in recent decades. The non-metaphysical reading of Hegel also makes him out to be a constructivist by taking his ideas about sociality and non-foundationalism to provide a new interpretative framework for his philosophy as a whole. On this view, Hegel's account of sociality – read through a Sellarsian account of the “space of reasons” as well as an interpretation of his thesis of mutual recognition isolated from the rest of his philosophical system – is the sphere within which rational agents exchange reasons with others whom they recognize as worthy of exchanging reasons with. Rational norms achieve their objectivity through the space of reasons (i.e., through the social exchange of reasons and the forms of agreement that become binding on us as rational social agents). The objective validity of our norms obtains not as a result of any metaphysical or realist account of their content but rather from the modes of agreement established – indeed, only made possible by – inter-cognitive and recognitive practices that are constitutive of *Geist* (“spirit”) itself.⁵ Hence, Hegelian constructivism holds that *Geist* as a space of reasons is the locus for our construction of epistemic and normative validity or rationality.

This interpretation of *Geist* as a “space of reasons” is a social matrix of the giving and taking of reasons according to normative stances that we attribute to one another via the process of recognizing others as having the status of being accountable to reasons.⁶ The various statuses that we endow ourselves with no less than the knowledge claims we make about the world are always, on this view, open to some questioning, are constructed by the intersubjective process of recognizing said statuses and knowledge claims by others.⁷ As such, we construct reasons from within the institutions of objective spirit. The non-metaphysical view therefore maintains that what counts as practical freedom has nothing to do with the extent to which these institutions realize conceptual structures – that is, are structures and processes of social relations that shape our practical lives to realize free individuality – but rather what is circumscribed by

the reasons I can give from within those institutions. As Robert B. Pippin argues:

The point one needs to understand to get Hegel right is that this participation in a practice, offering, accepting and rejecting institutional reasons, is all that Hegel counts as having the sorts of reasons that allow the action to be counted as free, genuinely mine.

(Pippin 2008: 263)

What is supposedly gained here is a philosophical claim about the salience and centrality of social practices. But what is lost is the essential structures and conceptual features of our sociality and its ontological depth.

2.3. *Two Problems: Relativism and Reification*

Hegelian constructivism claims that the validity of norms and institutions, their rationality, as it were, is always contained within rational practices themselves (i.e., as Pippin notes, practices of reason-giving and reason-taking that sort out which binding reasons work and which do not). There is nowhere else to look for the rationality of my social world and its forms. As such, it is difficult to see how any kind of critical rationality can emerge. More to the point, what the Kantian and Hegelian paradigms of constructivism lack is a caliber of reasons that can overcome the tendencies for social reasons to sink into relativism or some other kind of non-reflective acceptance and endorsement. What “works” is not necessarily conceptual in any robust sense and, furthermore, reasons that are contained in the practices and procedures of what already exists are deeply vulnerable to such cognitive and evaluative pathologies.

In their attempt to shift the horizon of rationality away from pre-critical metaphysical baggage (e.g., *Geist* as equivalent to God or some other transcendental substance) and articulate a more public form of reason, constructivists have exposed their theories of rationality to two fundamental problems that, as I see it, make their project untenable. The two defects are those of *relativism* and *reification*. These two defects of constructivist theories of practical reason are linked but are also in certain ways distinct. The first points to the problem of an incapacity of reasons that are considered valid insofar as they are agreed upon and held as objectively valid due to their passing the “tribunal of reason.”⁸ Relativism can emerge because there is no ground for any norm to be seen as objectively valid. The reasons given for any norm or institution can too easily become rationalizations of already existing practices as the normative structures of consciousness are shaped by strong forms of social integration and institutional legitimacy. Women can come to accept forms of patriarchy as acceptable or even endorse them, workers

can see capitalists as legitimate for creating or maintaining their employment and grant them tax breaks at their own expense, and so on. There is no access to the metaphysical-conceptual valence of reasons and, as a result, the norms and theories of different communities or groups can become rooted in particularist rationalizations masquerading as universal “reasons,” which implies that certain norms are rooted in the second-nature of the prevailing reality. The relativism problem therefore lies in the cultural and institutional context-dependence of our reasons that has the power to rob them of their critical power.

The second problem is a more insidious and more profound defect and that is the danger that the space of reasons can become nested in the prevailing forms of accepted norms and practices within which any community operates and cease to become the object of rational scrutiny. For the Kantian constructivist as well, the procedure cannot prevent reification from shaping the cognitive and evaluative frameworks of meaning that agents will deploy. These accepted norms can come to shape cognition itself and the normative structure of thinking.⁹ If the Hegelian “space of reasons” or a Kantian procedural realism is our ground for articulating norms, then there is no critical space beyond what subjects take up from the social background conditions into their cognitive and evaluative practices. Reification therefore comes to circumscribe the collective meanings that we use in employing social reasons. There must be a way to secure a more critical valence of rational reasons, something I think that the metaphysical structure of reasons that Hegel explores can provide.

The central problem here emerges when we are unable to cognize the prevailing social reality’s deviation from the concept: that of the inner rational structure of purposes or ends that make the forms of cooperative organization we inhabit rational and free. It is Hegel’s view, as I interpret it, that the historical experience of thought has led human cognition to the point where it can understand that there are certain ontological forms of social relatedness that are rational (i.e., imbued by universality) and which have features of the concept, or the rational structure that is constitutive of the object, that make them universal (i.e., not plagued by contradiction). Reification and relativism are real problems of constructivism – Kantian or Hegelian – because such an approach cannot guard against the tendency of social power to shape and affect the normative structures of social reality and the consciousness of agents. Indeed, we can say that for constructivists, social power does not exist in any substantive sense; there is no significant recognition of the constitutive capacities of social power on the cognitive and evaluative power of subjects.

I think that a return to Hegel’s metaphysics and its relation to practical reason can help reconstruct a critical conception of reason, something that the post-metaphysical reconstruction of Hegel has failed to accomplish.¹⁰ One of the core failings of the non-metaphysical and

constructivist interpretation of Hegel is that it effectively makes no room for rational social *critique*.¹¹ Although the thesis of the reflexivity of reasons is an important aspect of human practical reasoning, it seems to me that the constructivist accounts take reason-exchange too far. In their attempt to move beyond metaphysics, they overlook the way that Hegel's particular approach to it can play a role in formulating a critical theory of practical reasoning. As John McDowell has correctly observed: "people can be wrong about reasons. Freedom can be more or less fully realized, and its degree depends on the extent to which the supposed reasons in the light of which someone acts are genuinely reasons" (McDowell 2009: 169). Indeed, what counts as "genuine" reasons seems to me to be precisely the issue that constructivists get wrong. In the remainder of this chapter, I will therefore seek to show how Hegel's metaphysical ideas can be used to articulate a critical practical reason as a model for free, rational agency.

3. Ethical Agency and the Ontological Status of the Good

To defend a critical form of practical reason we need to see how Hegel's overall concept of reason is distinctive and how it allows a more comprehensive grasp of our actions and the social world as a whole. In this way we will be able to construct a theory of rational reflection and rational agency that links with the social-ontological thesis I am defending. Rational agency, as I have been suggesting, must be able to inquire about the metaphysical structures of social reality and ensure that these social norms, institutions, and practices manifest the concept: (i.e., that they are able to make actual in the world free individuality). The relevant question here now becomes: what ends and purposes (subjective and objective) are valid for me as a rational agent? Asking this question entails a series of other questions relevant to the social-ontological relations and processes (institutions, norms, and so on) that I am to see as valid and legitimate. Hegel's novel answer to this question is one that places him in a republican mold: he views what is rational as that which is universalizable not according to a precritical, pre-modern iteration of the "common good," but according to a new principle where interdependent-embedded individuality is central to any valid normative claim.

The critical moment emerges when we see that the rational structure of the ethical system or "ethical life" to which I belong is optimized or realized only within those institutional and normative structures that possess reciprocal forms of interdependence at their animating core. And this needs to have freedom (i.e., the self-realization of its members) as the end or purpose. This is why Hegel's reconstructive account of normative reflection is crucial: we articulate valid norms not based on mere agreement but consider norms and institutions as valid based on the way that they realize their conceptual structure – as having the *telos* of

freedom. In its most essential terms, the thesis of social metaphysics, in a Hegelian sense, describes the ways that collective norms and concepts structure and grant objectivity to our practices and social institutions. These institutions (i.e., the social reality as a whole) are not produced by nature but are ontological products of our practices, ideas, and norms. They have objective causal powers over individuals. Freedom is therefore the harmonization of the self-consciousness that this social reality is *our product* but also that the purpose and end of these social forms are to serve *our* development and *our* self-realization. The ontology of our social forms is therefore to be cycled through our cognitive powers of critical-rational reflection, and to accomplish this, rational agents need to be able to think in terms of reasons that are able to capture the systemic totality of their social world and the extent to which this systemic totality, and the subsystems and institutions that constitute it, realizes (or fails to realize) freedom ontologically, that is, in *actuality*.

3.1. *The Metaphysical Structure of Reasons*

Hegel argues that reason is not simply a scheme of concepts employed by subjects to understand the world. Nor is it what we agree upon through intersubjective exchange with recognized others. His position is that thought and being must share the same conceptual structure. It is the most important and distinctive aspect of his philosophical project to understand reason as more than a subjective capacity, but also something that undergirds reality itself. The aim is to achieve a harmony between the reasons we hold as concept-users and the rational structure of objective reality itself. As Hegel remarks in the Introduction to his *Encyclopedia Logic*: “[I]t may be held the highest and final aim of philosophic science to bring about, through the ascertainment of this harmony, a reconciliation of self-conscious reason with the reason which is in the world – in other words, with actuality” (Hegel 1986 [Enz.]: §6).

Hegel’s metaphysical project bears no resemblance to the precritical metaphysics thoroughly critiqued by Kant. For Hegel, the key thesis is that any rational comprehension of the objective world must seek to grasp the totality which is constitutive of any given particular object. This means that a Hegelian structure of rationality operates according to a holistic and organic mode of cognition where the reasons that we deploy as agents has a metaphysical structure: that is, they are able to capture the logical-conceptual structure of the object. Hence, reasons that we possess cognitively must also be the rational structures of the objective world itself if those reasons are to be considered *rational*. Hegel’s thought recasts the idea of metaphysics as an inquiry into the structure of reality taken as a *totality* or system, one that can be captured in the cognitive-conceptual realm by rational agents. But even more, Hegel’s systematic project of presuppositionless inquiry guards against

the precritical metaphysical fallacy of ascribing antecedent validity or authority to a conceptual scheme.

In this respect, Hegel's social metaphysics seeks to understand the reality of our practical lives together not as constructed from a set of accepted, formal a priori principles but rather from the specific structures and ends that our lives together take. But he also sees that our social reality has a metaphysical structure: that is, that our relations with others have purposes and ends that can be evaluated as realizing freedom or not. Our social reality is, therefore, for Hegel, not merely a space of reasons, it is not merely social action and sociality. It possesses ontological features: structures, processes, and purposes that are constituted in specific ways and which are antecedent to us as well as constituted by us. At the same time, we reconstitute this world and, in such a way, rational agents must be able to inquire and to validate those ontological structures and the norms and practices that constitute them. Of course, in so doing they are inquiring into an ontological realm that they have created collectively; but the key idea here is what ontological forms realize the good (i.e., freedom) and which either do not or even negate the good. For Hegel, this social ontology concerns the shapes and forms of the relational structures that are constitutive of our social world. Metaphysics is the means by which we comprehend this social ontology, this social totality and its objective features. This is not, lest one is tempted to see a slide back into Aristotle, an aspect of nature. Rather it is *ontological* in the sense that it operates according to the features of the concept and is objectively real but non-reducible to its empirical features as well as the product of the praxis of agents. It is rooted in *Geist*, in the shapes or relational structures that *Geist* takes. The key idea here is that Hegel sees the essential structure of things as contained in their concept, and concepts are dynamic things – they are processual in nature. The concept of any thing is not reducible to that particular thing but can only be understood as the universal of which that particular thing is an expression. The concept is what that particular strives to become, it is an ideal that is immanent to that thing, a prescriptive, rather than descriptive, ideal (cf. *Enz*: §§193–203).

Now if we take this interpretative move further, we can see that Hegel's idea of what kind of reasons qualify as reasons is also a metaphysical question. A reason has metaphysical structure insofar as it is able to grasp the systemic features of the object; it is able to contain within it the systemic and processual nature of objective reality. A rational account of a rock would therefore not be completely rational if it restricted itself to the empirical features of any particular rock, say, its color, hardness, and so on. Similarly, it would not be fully rational if it abstracted too much from that particular rock and explained it in terms of the molecular structure of rocks, of lattices, gravitational forces, and so on. Rather, it would only be a fully rational account if it were able to see how that

particular rock was the product of systemic geological, chemical, and physical forces, that rocks were the product of these overlapping systems of forces, and so on. A rational account of a simple object such as a rock therefore would find itself articulating a series of nested systems that operate according to mechanisms of causation that have as their end the rock as a product of its processes. Our concept of what a rock is therefore must have the same structures that are actually constitutive of rocks.¹²

This focus on the purpose or end (*Zweck*) is an essential component of Hegel's account of the concept. Conceptual structures are not only cognitive representations or linguistic signifiers. They are constitutive of reality itself as well as of thought. In this sense, since reality operates at the level of process, as we saw earlier, it necessitates that we grasp concepts as structured processes of relations with end-states that retrogressively define their subordinate purposes and internal relations. The reason for this is that, for Hegel, the end or *telos* of any object in fact subordinates the means of that end to it.¹³ Since the concept is a prescriptive ideal, the potential of which is immanent to the object, it allows space for a critical form of knowledge, in that we have access to the space between the existence of any particular object on the one hand and its conceptual structure on the other. Hence, the concept of the good takes on a concrete, constitutive meaning rather than an abstract, formal normative category. Good objects are those that realize their concept, defective objects those that fail to do so.¹⁴

In this sense, reason has a *metaphysical structure* in that the concepts that we possess cognitively, as subjects, are also the conceptual structures of the object domain itself.¹⁵ Hence, we move beyond mere thought-forms and begin working within a framework of concrete reason, of the realm of the *Idea*, the unification of the subject and object.¹⁶ This is a fundamentally ontological position. The making of a table requires not only the abstract cognitive capacity to think the form of the table, it also requires the subordination of a series of means – trees, branches, axes, saws, nails, and so on – in order for that end to become concrete and objective. But the table itself, the end or purpose of the means, is more than an empirical object, it is ontological in the sense that its significance, its conceptual structure, is dependent on our external purposes. The end even has the capacity to transform the means from mere empirical objects into subordinate concepts to that purpose as well. So the ontological gives us cognitive space for critique insofar as thought can work with the conceptual structures of objects and how they realize, or fail to realize, their rational structure, their concept. This is a crucial aspect of the metaphysical importance of Hegel's system that can provide us with a critical capacity for reason.

But more essential for my thesis here is that Hegel makes a central distinction between internal and external purposes or ends. An individual can possess an end or have purpose in mind when, say, building a table.

The purpose in this sense (i.e., the building of the table) is external to the wood and nails themselves. But *internal* purposes also exist, just as when a seed becomes a plant which in turn bears fruit or a fetus becomes an adult person, or whatever. An internal purpose or end does not subordinate external objects as means for its end – as the carpenter does with the wood and tools – but rather possesses those means already as a part of itself. Even within the organism, livers, hearts, kidneys, and muscles have purposes or ends that are internal to their design, or the metaphysical structures of mechanism, chemism, and relations that are constitutive of it. The key idea here is that teleology is the final stage of these objective metaphysical structures that allow us to understand the totality of the object itself. This is why Hegel maintains that the end (*Zweck*) of any thing is the expression of its free existence, its inner principle made objective.

This becomes very different when we begin to talk about society and human social life itself. Unlike rocks which possess merely mechanical properties, society, like a living organism, possesses a different ontological structure. In his *Logic*, Hegel proposes that we see the conceptual structure of higher order systems as moving from mechanical to chemical and then teleological-constitutive forms, where *Geist* takes its own objective structures as being its own ground. What this means is that in order to comprehend the conceptual structure of systemic processes – which Hegel sees as the essential structure of reality itself – we need to comprehend the ways that parts and wholes interact to articulate the ontology of wholeness. The end (*Zweck*) is not only the purpose (internal or external) of the concept, it is also the manifestation of its free existence: “In the End the concept has entered on free existence and has a being of its own by means of the negation of immediate objectivity” (*Enz*: §204). Teleology is the highest expression of the concept where the parts of the system relate to one another as a proper unity. One of the first distinctions between organic and non-organic objects is that their constitutive systems are different, of a higher more complex order of operation.

What Hegel seeks to argue in his treatment of ethical life is that there needs to be a synthesis of internal and external teleology if freedom is to be made objective and concrete in the world. For Hegel, society is not a structure of nature, as Aristotle would have it, nor a concatenation of individuals who construct it *ex nihilo* as in social contract theory. Our associations with others (products of our essential social relatedness) are shaped and re-created by us, but they form the essential structure of our species. What marks modernity off from other phases of history is that this has become self-conscious in the minds of each individual, and each self-conscious agent realizes cognitively as well as practically that this essential relatedness means that my own particular good and freedom is but a dimension of a higher structure of social good and social freedom. But it is only in modernity that self and society are both free – that

is, it is only in the modern world that rational subjects make the good of the whole their self-conscious aim and know that this aim is for their own particular good as well as the good of all. In this sense, the purpose of the family, of the relations of civil society and the state have external purposes, but these purposes have to be underwritten by each member's rational agency. The intentionality of subjects (external teleology) and the purposes of the social institutions that make up my social reality (internal teleology) must be sublated into a unity. Only then can the free state and the free individual truly coexist and produce one another.

As far as reasons are concerned, we can see that they must be more than merely cognitive, intersubjective modes of agreement. Rather, reasons carry with them this metaphysical structure in that they are *accountable to the conceptual structure of the object itself*. And this conceptual structure of the object is metaphysical in a realist sense – it is not constructed by us. Rather, our theories about the world are reconstructions in thought of what already exists in reality. This is the real difference that the metaphysical interpretation of Hegel brings to the fore: reasons are hooked into a richer apprehension of the object, and the validity of the reasons that we deploy are a function of the extent to which such reasons contain, cognitively, the objective conceptual structure of the object of inquiry. The importance of the end or purpose of any thing is that it helps us gain access to the conceptual realm in that it is able at a dialectical level to shed light on the subordinate processes and relations that constitute it.

The teleological structure of the concept entails that we can see the immanent structure of ethical life as also having such a structure. The relations we have with others, the duties to others, and the ends to which those relations are oriented, and so on, are all ontological structures of social reality. But rational agents have to validate them; they must recognize them as rational and as worthy of their participation. The rationality of our ethical life is therefore a function of the extent to which the relations, processes, and ends that are constitutive of its subsystems and of itself as a totality, maximize the freedom and developmental capacities of its members.¹⁷ Rational reasons therefore cannot simply be reasons that we construct and come to agree on. Indeed, they must have a component of intersubjective agreement, but what makes those reasons *rational* is that the reasons that justify those ontological forms of life are conceptually resonant with freedom itself.

Because they have sheared off the metaphysical dimensions of his thought, those that advocate a constructivist Hegel stop at a theory of the sociality of reason without showing that the reasons we are to deploy require a metaphysical richness for them to achieve rationality. Indeed, Hegel warns against precisely this view when he argues that right cannot be based on “the external positive authority of the state or of the mutual agreement (*Übereinstimmung*) among persons, or through the authority

of inner feeling and the heart or the spirit which immediately concurs with this" (Hegel 1970 [*PhR*]: §46). On Hegel's view, the rational subject must be able to comprehend social reality in organic and holistic terms.¹⁸ Thought becomes rational for Hegel once it is able to capture the conceptual structure of objective reality and to discern whether the ontological forms are the realization of that conceptual structure (cf. Marcuse 1954: 121ff). Thought does not determine being, it rather unifies itself with being.¹⁹ The concept is a shared structure of cognition and reality. As such, we cannot simply construct practical or normative truths. From a true Hegelian perspective, the constructivist fallacy lies in this: it allows intersubjective agreement and social responsiveness to others to displace rational reflection on the conceptual structure of the ontological forms of life that are constitutive of social reality.

3.2. *Conscience, Self-Consciousness, and the Good*

To see how this form of reasoning constitutes rational-critical agency, we must see how Hegel constructs the relation between the subject and the good. Hegel draws a clear distinction in the *Philosophy of Right* between conscience and self-consciousness. But the structure of conscience is important in providing the subjective dimensions of what will become a fuller form of self-consciousness or what we should see as an expanded expression of autonomy.²⁰ Fundamental to Hegel's thesis is that a modern conception of freedom has to make room for the subject's subjectivity and its capacity to see as valid, or accept as rational, the objective norms, practices, and ends of ethical life. As Dean Moyer has therefore rightly pointed out: "We can formulate the main problem of modern freedom as the problem of how to understand the relation of conscience's authority to the authority of good reasons or objective ethical content" (Moyer 2011: 12). I think that a satisfactory resolution to this question can be found by exploring the rational agent's relation to the ontological structures of ethical life and the way that the conceptual structure of ethical life is cognized.

Conscience is therefore not understood, as it is for Kant, in accordance with a self-legislative model of human practical reason, nor is it a reflex of communally held beliefs and values that are accepted as rational. Rather, conscience must be transformed into a higher form of self- and other-awareness – it must become *universal self-consciousness*. This is the capacity of rational agents to discern the rationality of the social-ontological forms of life that pervade their society and to grasp conceptually the totality of the ontological forms of life that pervade any given social reality. This means all of the metaphysical elements of the concept, from the structure and process of the social relations involved and the *telos* of those structures. Universal self-consciousness is an expanded form of agency that is able to cognize the metaphysical structure of reasons

and the extent to which one's social world as well as one's own actions and practices instantiate the conceptual structure of rational ethical life.

Hegel argues that conscience is related to the good. The good is distinct from my particular sense of what is good for me, or what Hegel terms "welfare" (*das Wohl*). Rather, the good is resonant with universality and brings subjective purposes into a broader evaluative context. As such, what is particular now becomes mediated by universality and sublated into a more rational sphere of reasons:

The good is the Idea as unity of the *concept* of the will and the *particular* will – in which abstract right as welfare and the subjectivity of knowing as well as the contingency of external existence (*äußerlichen Daseins*) are sublated in their independent self-sufficiency, but at the same time *their essence is contained and retained*. The Good is *realized freedom*, the *absolute purpose* (Endzweck) of the world.

(PhR: §129)

But the good is also a feature of teleological causality as well. Hegel says that the good emerges as an ontological property of any thing that has been able to realize its end or internal purpose.

Conscience reaches its limit in the Kantian model of autonomy because it is unable to move into the ontological domain of objectivity. Instead, we see that in reaching this limit, rational agency itself becomes transformed into a higher structure of consciousness, one able to grasp more than a merely subjective form of good but the good as truly universal: "The nature of man consists precisely in the fact that he is essentially something universal, not a being whose knowledge is an abstractly momentary and piecemeal affair" (PhR: §132). Conscience must therefore migrate into self-consciousness via the process of recognition and the recognitive relations that are structures in the various stages of ethical life. When these institutions are rational (i.e., realize the concept) they will promote this expanded awareness on the part of the self. Each of us therefore will come to a more rational cognitive grasp of the purposes of our social institutions and the legitimacy of the relations that are shaped by those purposes.

There is a syllogistic relation between the person and the community. Once any one facet of the syllogism – whether particular, universal, or individual – takes precedence over any other, it loses its rational, conceptual character and becomes defective, falling into contradiction. Conscience, on its own, becomes defective because it rests on a form of universality that is merely formal, abstract, and without content. But this does not mean that Hegel is arguing for an abandonment of conscience itself.²¹ The key move here for Hegel is to transpose the Kantian theory of morality into a form of expanded conscience where any agent is able to reflect on his status as an interdependent self. This expanded

conscience thereby negates his independence *from* others and allows the subject to become aware of his social interdependence *with* others. The liberal conception of freedom breaks down and a new space of freedom can emerge. The social-relational structure of cognition that results from the process of recognition transforms the autonomous self into an agent that is self-conscious of its essential relatedness with others, thereby producing a totality that itself can become the object of cognition. This essential relatedness with others is the substantive content that is formed and shaped into the ontological structures of ethical life. The modern family, for instance, is a specific shaping of our relations with others just as civil society and state also are higher shapes of relatedness with others as well as with self. The good is realized and made concrete in the world once these relations and the ends for which they are organized promote common goods and freedom for the members of the community.

The subjective purpose of my action therefore has to take on a wider context for it to be considered rational and free. True, one takes the existence of others into account when considering a purpose or end, but, more importantly, the *very purposes I choose* should be those that are resonant not only in a space of intersubjective reasons but more crucially within the framework of an *ontological structure* of reasons. In other words, the ends that I see as rational and which ought to command my duties are only those that conform to the common, universal interest of the community as a whole. And, following the structure of the syllogism, this is because the universal good is what at the same time enriches the individual good. This means that in any move toward self-consciousness, the rational will (*Wille*) can be understood as a metaphysical transition from one kind of being to another. The reason for this is that in comprehending myself as ensconced in social relations, I come to see that the truth of the good (*das Gute*) cannot be collapsed into my own particular welfare (*das Wohl*). Hegel therefore says that: "Welfare has in the Idea no validity for itself as existing in the particular will, but only as universal welfare and essentially as universal in itself, i.e., after freedom. Welfare is not the good without right (*Recht*)" (*PhR*: §130).

We can now see that the process of recognition is more than the mere attribution of status to one another but rather is the phenomenological membrane through which our conceptual grasp of our social substance (i.e., our essential relatedness with others) takes place. Only when we have come to absorb the other into our own subjective structure of consciousness can we say that an expanded form of cognition has begun to take hold (see Williams 2013). And it is at this point that the particular is mediated by the universal insofar as each agent recognizes not only himself in the other, but a higher structure of interdependent being that unites each agent with the other into a social totality. Conscience must move beyond its particular confines. This does not entail an abandonment of subjective conscience but rather the transposition

of this conscience into the richer, more rational conceptual sphere of self-consciousness.

3.3. *The Ontological Status of Ethical Life*

Once we have passed into the realm of ethical life (*Sittlichkeit*) we are not only moving in a space of reasons but we also participate in objective institutional structures and webs of norms that have causal, constitutive power over our development (*Bildung*) as well as the formation of the social reality that we inhabit (cf. Menke 2013). *Geist's* ontology therefore emerges in the practical, concrete shapes and forms it takes (i.e., in terms of the forms of social relatedness that it sanctions). In this sense, freedom is not merely a principle but becomes an *ontological feature* of our activities, practices, and actions in the world.²² Hegel makes this evident in his discussion of the transition from morality to ethical life:

For the Good, as the substantial universal of freedom, but still abstract, there are required determinate features of some kind as well as the principle for their determination, but a principle identical with the good itself. Just as for conscience, as with the purely abstract principle of determination, it is requisite that its decisions shall be universal and objective.

(*PhR*: §141)

Self-consciousness and the good must now migrate to a social sphere where they both become determined concretely. This means more than a placing of rational selves in relations of dependence and responsiveness to the reasons of others. Rather, self-conscious agency is able to cognize the good in metaphysical terms; not as mere internal, subjective certainty (*Gewissheit*) but as the conceptual grasp of the objective conditions that will realize human freedom.²³ In self-consciousness, the subject is conceptually aware of the kind of social interdependence (as opposed to independence and dependence) that is the truth of its being.²⁴ Of course, this occurs not by nature or by sudden realization but rather through the phenomenological course of interacting with others, through the cognitive processes that are increasingly, over time, subjected to dialectical scrutiny to reveal the conceptual structure of our social essence (see Tunick 1994).

As a holistic system, ethical life becomes a richer, more mediated sphere of reality, but one that has objectivity and raises itself above mere particularity and subjectivity alone:

Ethical objectivity (*Das objektive Sittliche*), which comes on the scene in place of good in the abstract, is through subjectivity as infinite form, concrete substance. It therefore posits within itself distinctions

whose specific character is thereby determined by the concept and which endow the ethical order with a stable content independently necessary and subsistent in exaltation above subjective opinion and caprice. These distinctions are absolutely valid laws and institutions. (PhR: §144)

Ethical life provides the substantive content for self-consciousness to emerge, for now morality moves from being an abstract and formal affair to one that is posited in actual practices and relations. In the process of this move from abstract self-legislation to the ontology of social practices and institutional ends, conscience is enriched into a practical dimension of *self*-consciousness:

Ethical life is the Idea of freedom as the living good that has being in self-consciousness with knowing and willing and is actualized by action. Self-consciousness has in the ethical realm its absolute foundation (*an und für sich seiende Grundlage*) and its moving end. (PhR: §142)

As a corollary to this, the good now comes to take on not merely an abstract form of universality but an *ontological* status insofar as it conforms to the structure of the Idea: that is, the unity of practical and theoretical reason:

Thus the truth of the Good is laid down as the unity of the theoretical and practical idea in the doctrine that the Good is radically and really achieved, that the objective world is in itself and for itself the Idea, just as it at the same time eternally lays itself down as End, and by action, brings about its actuality.

(Enz: §235)

The good is realized as the end of the social institutions and practices of the community that have as their ends the realization of self-conscious individuals.²⁵ Since the good is something that is realized rather than something regulative and formal, the synthesis of internal and external teleology – that is, of the *subjective* intentions of the particular agents and the *objective* purpose of the society as a whole – is the basis for freedom. The good is therefore not something arbitrary but something that resonates with the concept. Since Hegel is insistent that the good is rooted in self-consciousness, it entails a connection of self-consciousness as the conceptual grasp of our socio-interdependence with one another (achieved via relations and processes of mutual recognition) with our intentions and subjective purposes – it is the unity of autonomy with objective *Geist*.²⁶ But it is also to be the foundation, the inner ground, of our social reality as well. And if we are to have duties to that world, then

it too must actively be organized to produce the good. But the key thesis Hegel is defending is that reason has a valid ground in those forms of life (i.e., those ontological structures of relations, processes, and ends) that promote free individuality.

4. Hegelian Ethics as Critical Practical Reason

Now that the basic framework for a conception of the ontological status of reason and the good has been laid out, I can now turn to a claim that will be perhaps more controversial but nevertheless supported by Hegel's philosophical commitments. I have been arguing that fleshing out the relation between Hegel's metaphysics and the nature of rational agency and self-consciousness is crucial because it gives us the necessary background for a theory of critical agency. As I see it, Hegel's account of practical reason necessitates that the subject be able to possess a critical vantage point on the social world it inhabits. This occurs when contradictions emerge within the manifold of ethical life and the kind of institutions, norms, and practices that constitute it. No rational agent can ever be expected to have obligations or duties to forms of ethical life that are nonrational or which embody contradictions. Contradictions can only be grasped by a modern form of rational agency that has been able to expand its normative horizon to include the teleological purposes of ethical life as freedom and our self-realization as self-determining agents.

The point here is that if we grant an interpretation of Hegel's theory of rational agency as being carried over into the sphere of ethical life, then it must also be a kind of rationality that is not merely formal duty, as in Kant, nor fully a command theory of duty, as virtue ethicists have suggested (see Stern 2012: 148ff). Rather, the key seems to me to lie in a more radical thesis about the kind of self that emerges within a truly rational form of ethical life. This expanded form of self, or expanded conception of autonomy, would be one not of self-legislation according to some abstract universal (i.e., the categorical imperative) that would seek to steer the self's otherwise irrational desires. Rather, the thesis I think that fits best with Hegel's project is a model of rational agency in which the subject reflects on its duties to the rational-conceptual structure of the ontological forms of social life that surround it. According to this thesis, the rational, self-conscious agent is one that endorses or dissents from the social structures of ethical life based on whether they embody the proper metaphysical structures that have freedom as their purpose or end. The question is not of duty to *oneself* per se, nor is it to an abstract principle. It rather refers to one's practical allegiance to the actual social relations, processes, and ends that underwrite the ontological structure of the community. It is, in the end, a *critical self-conscious agency* that lies at the terminus of Hegelian ethics.

4.1. *Obligation and Critique in Hegelian Ethics*

We are now in a position to come to terms with what the nature of Hegel's theory of self-conscious practical agency is with respect to the rational ends of the community as a whole. What comes to the fore again is the thesis that free ethical life is a social-ontological sphere of interdependent relations organized around the common good of its members and, ipso facto, the freedom of the individual. But this interdependence has a structure; my relations with others are not static relations but are organized toward certain ends and purposes. But what obligates me is not simply that these institutions exist (*Dasein*) but that they conform to their conceptual structure and have freedom as their purpose and end (*Wirklichkeit*).

This is why Hegel says that the good and conscience must migrate from something abstractly determined to something concrete. The individual must not only see itself as related to the ontological structures of social reality but it must also make that ontological substance the content of its will, from which it can obtain its freedom. Hence the distinction between a duty (*Pflicht*) and right (*Recht*):

Duty is primarily a relation to something which from my point of view is substantive, absolutely universal. A right, on the other hand, is simply the embodiment of this substance and thus is the particular aspect of it and enshrines my freedom.

(*PhR*: §261)

It is only those forms of ethical life that realize the good as their end, that have as their *Endzweck* freedom, that will become part of the structure of the rational will (*Wille*) of our free agency. It will not command the rational will externally or internally, it will be sought after *for its own sake*:

Individuals, therefore, pass over of their own accord into the interest of the universal and, for another thing, they know and will the universal; they even recognize it as their own substantive mind; they take it as their end and aim and are active in its pursuit.

(*PhR*: §260)

But not any ends will do, and therefore not any reasons will do. To leave the discussion here would be to leave it at another level of formalism as well as open us up again to the dual problems of relativism and reification that plague constructivist accounts. Therefore, we must understand critical agency as rational self-consciousness; but this self-consciousness cannot be a mere responsiveness to reasons, since reasons have a meta-physical construction. Hence, I think an account such as Dean Moyar's misses the full richness of what Hegel has in view. Moyar argues that

a rational agent must relate his motivating reasons and the reasons he would use to justify these reasons. Hence, he argues:

In ethical action, an agent's motivating reasons refer to purposes that can be nested within purposes that provide justifying reasons. . . . The subject is held to objective norms in relations of recognition, through objective nesting relationships that do not directly determine the agent's actions.

(Moyar 2011: 174)

But this is a kind of abstraction that Hegel wanted to overcome. Merely relying on "justifying reasons" cannot be adequate without taking into account the metaphysical structure of the reasons we are employing no less than the conceptual structures that determine the ontological forms of life that we live within. The reasons that are justifiable are those that resonate with the teleological structure of ethical life itself: (i.e., relations, processes, and ends that realize and maintain free individuality).

Critique now emerges as a central concern here since self-consciousness is no longer *conscience* itself but refers to the way that the agent's relation of his or her subjective will to the good is sublated into a richer form of subjectivity that grasps its conceptual structure as socially interdependent. It is able to have in view the logical structure of relations, processes, and ends; it is able to see that its own welfare is rooted in the common good of the relational nexus of which it is a part. Just as the individual no longer conceives of the self as an immediate particular, so too it sees that the structures of ethical life are not merely external norms and institutions to be followed but rather ontological social structures of reality that are constructed by us for human ends. The good now achieves ontological status and the self's practical-reflective capacities become not merely a formal abstraction but an actual presence in the world to the extent to which any system or object realizes its conceptual structure in the world.

This is where the metaphysical structure of reason and the ontology of ethical life come together within the self-conscious agent's reflective capacities. The relevant question looks something like this:

(i) Does institution or norm *X* warrant my obligation?

And (i) will necessarily entail:

(ii) Does *X* achieve the status of rationality and not engender contradictions or is it not organized around the *telos* of freedom?

This kind of justification can happen within each of us as well as within the space of reasons. A father can ask himself: "Is ϕ what a father should

do?” But this must also entail the nested question: “Is it the purpose of fathers to ϕ ?” while keeping in critical (i.e., conceptual view): “The purpose of a father is to contribute to the free agency of their child,” and so on. Critical reasons are therefore fundamentally derived from a dialectical awareness of the conceptual structure of social reality itself. They are derived from an awareness of contradictions or defects within the society’s existing institutions and practices – contradictions and defects identified by comparison with the conceptual structures that would otherwise realize freedom. We can therefore say that there is a metaphysical, rational framework (I have elsewhere referred to this as the “metaphysical infrastructure”) within which those practical reasons are to be held accountable.²⁷ This is an expression of what Kevin Thompson has called “ontological justification” which is

an establishing of the fundamental orders and constitutive processes of being. . . . [T]he warrant of a concept, claim, or belief to be what it purports to be is vindicated if and only if it is shown to be a moment that is either itself the result of a conceptual unfolding of some object or is a moment in a differential relation included in such a progression.

(Thompson 2017: 60; see also Bristow 2007: 204ff)

The key idea here is that Hegel is able to provide a theory of justification that has its ground in the capacity of any ontological form of life to realize freedom (cf. Knappick 2013: 473ff). The foundationalism that Hegel is after here is one that is *internal* rather than external: we come to see the foundations for any normative duty or obligation as rooted not in the contingency of intersubjective agreement, but in the ontological structures of social life and the ends that they purport to serve.²⁸

The question of obligation now hinges on the self-conscious agent’s capacity to cognize the metaphysical-conceptual structures that undergird the ontological forms of social life that it inhabits. It cannot simply rest on the already existing institutions and norms of the status quo.²⁹ As Robert Stern rightly points out on this question when considering society’s command over the individual’s obligation:

[I]t can only treat what is required by society as a necessary condition for creating a moral obligation; for if it were to also treat it as a sufficient condition, then the worry would arise that on this account *anything* required by society would amount to an obligation. It is therefore important that Hegel considers these requirements as laid down by the *rational state*, which is seeking to uphold the freedom of its individual citizens; with this constraint, it is clear that it would not have the legitimacy to create genuine duties for people to follow.

(Stern 2012: 159)

Rational agents must be *critical* agents; they must be able to think in terms of the concept and evaluate the objective reality as either permeated by the concept or as being defective (what Aristotle would have categorized as ἀτελής [*atelēs*]). Contradictions emerge, reasons can become rationalizations, civil society's hedonic excesses can permeate the state – any number of things can occur that place more pressure on rational agency to critically evaluate and correct the system of ethical life.³⁰ Once this capacity within citizens begins to wither, the institutions of ethical life will also lose their rational character. Collapsing into the *Verstandesstaat*, the community would no longer be rational and have rational freedom as the purpose of its institutions and forms of life. Obligation therefore dialectically necessitates dissent from those norms and institutions that cannot be ontologically justified.

Critique is built into the rational process of self-consciousness because true self-consciousness cannot tolerate the existence of contradiction within a rational system. The space for critique emerges more clearly when we see that any form of justification requires the retrogressive ground that serves to join rational agency with the reality of the social world. But it also means that there is an implicit theory of dissent and non-obligation that can be rooted in this form of critical justification as well. For since only rational ethical institutions and norms command the rational agent's duties, it follows that those that are nonrational (or irrational), which do not conform to the concept, do not. But we can grasp this only when we have a metaphysical-conceptual grasp of the ontological forms that give ethical life its content. The key idea here seems to be that once the process of recognition has led us to universal self-consciousness, then we have a conceptual grasp of our essence as interdependent social beings who are free – but free only to the extent that we know that we organize this social reality *for us* and that the purposes of this organization, this social reality, is our own self-constitution as free individuals.³¹ If the intersubjective space of reasons is the only realm of objectivity, then there is no way to defend against relativism and reification. We can misunderstand or get reasons wrong there. But when we inquire into the metaphysical structure of the rationality of what exists, we can get a sense of its relative rationality or deficiency.³² The teleological ends that are produced and which organize our social relations must pass the tribunal of conceptual reason, and the substance of that is our freedom as interdependent, cooperative members of a common world.

4.2. *The Concretization of Freedom*

Once the self has migrated from formal conscience to practical self-consciousness, it is able to hold as part of its own conception of freedom a social conception of freedom. Society is “substantial” as Hegel makes clear over and over again, and in this sense it is only when subjective

reflection makes this social substance part of its own reflective capacities that the good can become real in the world. In this sense, freedom becomes concrete, not as an asymptotic principle but rather as a constitutive Idea in the world. The state (i.e., the totality of ethical life itself) must be animated by this principle of achieving the purpose of the good, and each individual must self-consciously identify with this end. “The state is the actuality of concrete freedom.” Hegel writes in the *Philosophy of Right*. “But concrete freedom consists in this, that personal individuality and its particular interests not only gain explicit recognition for their right . . . but they also pass over of their own accord into the interest of the universal and, for another thing, they know and will the universal” (*PhR*: §260). To be free in this Hegelian sense is to have self-determination within a sphere of social reality that itself is constitutive of freedom (cf. the interesting discussion by Khurana 2017: 336ff.). Hence, subjective and objective freedom are incorporated into a higher structure.

But the universal is not, indeed, cannot be, something formal, say, like the categorical imperative. Rather, it is substantive, possesses an ontological status. What can this mean? Self-determined agency, self-conscious individuality, will only see as legitimate and worthy of subjective duties those institutions and forms of life that promote the universal interest of the community. In the *Enzyklopädie*, Hegel makes this idea clear when he argues thusly:

Freedom and reason consist in this: that I raise myself to the form of $I = I$, that I know everything as mine, as “I,” that I grasp every object as a member in the system of what I myself am, in short, that I have in one and the same consciousness myself and the world, that in the world I find myself again, and, conversely, in my consciousness have what *is*, what possesses *objectivity*.

(*Enz*: §424z)

The syllogistic structure of thinking therefore grants us a means by which we no longer think as a particular but as an *individual* mediated by universality. A new *ethos* therefore becomes the ground for a new form of social rationality itself (cf. Cortella 2015: 137ff.). This is achieved via the process of recognition between subjects. Our particularity evolves into individuality as rational reflection on our phenomenological-recognitive practices reveals the conceptual structures of our social reality. Once this process is complete, we achieve “universal self-consciousness,” or the cognitive grasp of the good as socially achieved and my own role as a rational, ethical agent and the duties and obligations I have to that rational order. Hegel now brings us full circle from Rousseau’s crucial and thoroughly modern question about what can make any political association legitimate. Once my subjective purposes are aligned with

the rational, objective purposes of the institutions of ethical life, freedom can become an ontological, concrete feature of my world. But this seems to require that contradictions within the system of ethical life as well as within my own subjective reflective capacities be worked out. Critique can never disappear since we maintain the system of ethical life as rational, self-conscious agents, not as communal beings passively accepting and enacting the prevailing social norms.³³

5. Objective Idealism and the Bridge to Objective Ethics

In the end, a critical practical reason along Hegelian lines points us in the direction of a kind of ethical theory that is inherently practical and objective. An objective ethics, in contrast to ethical constructivism, posits a social essence to human beings. It sees that our social lives are not purely voluntaristic, but rather essential to our powers as practical, cognitive, and affective beings. But even though this is the case, there is no natural form of social relatedness that is to be found through an investigation into nature, biology, anthropology, or whatever. Rather, at its foundation is the thesis that the rational purpose of our cooperative lives together, of our essential social-relatedness, is to serve the developmental good of each member of this association. Hence, practical reason explores the various ways that the ontological forms of life – that is, those objective structures that organize and shape the social interdependence constitutive of our social reality – are able to manifest and realize this end of the common good that is also the individual good of each member of the community.

This approach certainly does not negate the basic ideas about sociality that is heralded by Kantian and Hegelian constructivists. But it does add a crucial metaphysical valence to the reasons we take as valid and as rational. In this sense, objective ethics is not an approach that sees normative values as timeless or external to our social practices, but it does require a higher criterion of validity for what count as rational norms and institutions. This could be described as a new Left Hegelian view of practical reason: one that centers on the critical encounter with our social reality rather than any passive acceptance of what are already considered “modern” institutions.³⁴ Indeed, one could use Hegel against himself in this sense, as when he advocates for constitutional monarchy and other non-democratic political institutions. As I see it, Hegel is a central figure in the construction of a critical practical reason that can counter not only the excesses of relativism and reification in modern ethical life but also provide a crucial foundation for a grammar to construct more rational, freedom-enhancing institutions and norms. Hegel’s philosophy should be taken to be a challenge to us as moderns – a challenge that we have a rational obligation to take up in the project of social transformation and social freedom.

Notes

1. See the discussion by Zöller (2015).
2. I have described this elsewhere as the “metaphysical infrastructure” to Hegel’s conception of practical reason. See Thompson (2018).
3. “The social role of a conception of justice is to enable all members of society to make mutually acceptable to one another their shared institutions and basic arrangements, by citing what are publicly recognized as sufficient reasons, as identified by that conception. To succeed in doing this, a conception must specify admissible social institutions and their possible arrangements into one system, so that they can be justified to all citizens” (Rawls 1980: 305).
4. As Onora O’Neill (1989: 210) has maintained: “By stressing that it is an *ideal* of the person that informs the original position Rawls avoids endorsing an account, let alone the suspect Kantian account, of the metaphysics of the self. Procedural Kantianism endorses only (a version of) the ideal of the independent and autonomous character we associate with Kant. In this way obscure and panicky metaphysics are to be avoided.”
5. See Terry Pinkard (1994: 227): “These ends should, that is, combine the subjectivity of the agent – his basic desires, wants and ideals – with the objectivity of justification – with what counts as a justification in the social practice defined by those ends – and that objectivity should be generated by ‘absolute knowing.’”
6. Terry Pinkard (2012: 8) fortifies this interpretation: “Like Wittgenstein, Hegel holds the view that ‘what people accept as justification shows how they think and live.’” To be an agent is to be an organic human animal who has a normative status conferred on her that she must then sustain through her own acts. As an agent moves around in social space and learns to negotiate it, she also commits herself to making sense of what she is doing, and that involves giving and asking for reasons from others moving around in that social space.”
7. Robert B. Pippin (2011: 68–69) therefore notes that “self-conscious beings do not have natures, they have histories. Human beings have taken themselves to be Christians, athletes, opera singers, spies, kings, professors, knights, and so on. They only are such if they take themselves to be, and their taking themselves to be at least partially constitutes their being such.” See also Brandom (2007).
8. Rolf-Peter Horstmann (2006: 70) notes that on these constructivist accounts “it is also extremely difficult to see how this approach can avoid the sort of epistemic relativism that Hegel himself clearly repudiated: the view not only that our knowledge claims can only be justified contextually, but also that the states of affairs to which those knowledge claims refer, what Hegel calls the ‘other’ of the concept, can be dissolved entirely into certain epochally or culturally dependent conceptual constellations.”
9. See my discussion of this view of reification in Thompson (2017).
10. Indeed, this non-metaphysical reconstruction of Hegel’s practical reason has not been without its critics. For a sample of this literature, see: Lumsden (2008); Schweikard (2013); Buchwalter (2016); Thompson (2018); Fritzman and Parvizian (2012); Rosen (2014); Ikäheimo (2006); Beiser (1995); Goodfield (2014).
11. Commenting on Robert B. Pippin’s account of Hegelian ethical agency, Brian O’Connor (2011: 759) argues: “He understands norms to be essentially communal and private norms are insubstantial, of no weight, and by implication, provisionally meaningless. The labors of any given individual to shift the normative basis of society – to change any of its institutions – has

- no legitimacy within his theory since that individual's efforts begin with an irregular intention."
12. Franz Knappick (2016: 766) also defends the metaphysical features of reason: "[T]he claim that comprehension of reality is possible presents a substantive *metaphysical* challenge: In order for us to be able to trace the objective connections of things in our theories, there have to be such connections in the first place. Thus, a *metaphysics of explanation* is needed that accounts for the features of objective reality that underlie successful explanations."
 13. Karen de Boer (2010: 162) notes that "*insofar* as something is determined as means, it relinquishes its independence and lends itself to the actualization of the end. Seen from Hegel's perspective, it is the end itself that determines something as the means of its actualization."
 14. Willem de Vries (1993: 235), taking the concept of the family as an example, fleshes this thesis out: "Dialecticians may start with a superficial understanding of the concept of a family, but as they seek to understand the concept more deeply, they can use the abstract structures plotted out in logic to explore the conceptual space of the family in greater detail. . . . The concept of the family reveals as well the dysfunctional family, for it will then be clear how families can fall short of the concept. The logic provides the theoretical structures within which our comprehension of such phenomena operates; all of these phenomena and their relationships will be instances of the most general kinds of objects of thought as laid out in the logic."
 15. Stephen Houlgate (2006: 34) argues thusly: "It is not a matter of thinking that is applied by Hegel to a given subject matter, such as thought, and that could be applied by someone else (for example, Engels) to nature or human history. It is, rather, the manner in which concepts themselves develop and demand to be thought."
 16. "The teleological relation is a syllogism in which the subjective end coalesces with the objectivity external to it, through a middle term which is the unity of both" (*Enz.* §206).
 17. As Raymond Plant (1973: 89) observes: "Understood in this way political experience is not a construction of the Ego, nor a mere addendum to human life, a necessary convenience, it is rather a rationally intelligible structure whose function is to develop the consciousness of individuals. When grasped in this way a particular form of political life may be seen as making articulate a specific capacity or nexus of capacities of the human personality and providing its own patterns of relationship and integration. Hegel's view of politics is therefore teleological: politics is a goal-directed activity, particular forms of political life, practices and institutions leading to the development of human minds and self-consciousness."
 18. Songsuk Susan Hahn (2007: 183) calls this "organic-holistic agency" and rightly argues on this point that such an agent "overcomes the one-sidedness of these dualistic approaches by extending his principle of organic wholes to ethical actions in a holistic way of seeing cause and effect, purpose and result, means and ends as parts of an inseparable whole."
 19. As Willem de Vries (1988: 178) rightly puts it: "The conviction that thought and being are one and that thought is adequate to the world is, according to Hegel, both the necessary assumption of the attitude of thought – its working hypothesis, as it were – and its ultimate result."
 20. I borrow the term from Christopher Yeomans (2015).
 21. As Allen Wood (1990: 174–175) rightly points out: "Hegel also regards conscience as a necessary element in morality, which not even the structures of ethical life can displace." Still, Hegel is insistent that conscience is sublated into practical self-consciousness.

22. Manfred Riedel (1969: 34) insightfully points out that Hegel “discovers what was hidden from himself and the theoreticians of natural law: namely that the concept of the legal person and the freedom and equality of individuals contained in the concept of the alienation of the ‘individual’ from the ‘general will’ presuppose the liberation from nature through labor. Hegel considers the general will of Rousseau and Kant to be a mere abstraction because it is achieved without labor and, as such, it lacks any objective relation or permanent existence. The movement of recognition is directed toward self-knowledge of the other and not toward a thing (*Ding*), but the content of the recognized will is mediated through labor and property.”
23. John McDowell (2009: 172) argues on this point that: “We should not be frightened away from holding that initiation into the right sort of communal practice makes a *metaphysical* difference. In this respect, achieving free agenthood is quite unlike reaching voting age. Responsiveness to reasons, the very idea of which is inseparable from the idea of the communal practices, makes out a fully-fledged human individual as no longer a merely biological particular, but a being of a metaphysically new kind – like Rousseau’s citizen, in a conception that is surely as ancestor of Hegel’s thinking.”
24. A.S. Walton (1983: 759–760) rightly argues that Hegel “argued that men are essentially social beings. By this he did not mean only that individuals acquire distinctively human abilities by living in society, such as the capacity to use language and to understand and accept rules and conventions. He did not mean just that men’s goals and projects could only be understood in the context of the constitutive importance of social relations, institutions, and attitudes. Like Marx after him, and Rousseau before him, he meant that men’s capacities are most fully developed when they live in societies in which they recognize the intrinsic value of being social beings, when they place a particular value on living and cooperating with others in harmonious social relationships.”
25. As Allen Wood (1990: 199) notes: “For its members, the ethical order itself is the final end, and a shared or collective end. It contains the right and welfare of individuals and can for this reason be identified with the moral good.”
26. Hegel (*PhR*: §153) says: “The right of individuals to be subjectively destined to freedom is fulfilled when they belong to an actual ethical order because their conviction of their freedom finds its truth in such an objective order, and it is in an ethical order that they are actually in possession of their own essence or their own inner universality.” Again and again in §§142–159, Hegel is linking rational agency as self-consciousness (rather than conscience) to the essential conceptual structure of human relations with one another. For a further discussion of this section, see Fleischmann (1964: 179ff).
27. Mark Tunick (1998: 525–526) also expresses a similar thesis: “If the critic objects to the claim that the practice of which *x* is a requirement is required by ethical life, Hegel cannot appeal to the principles immanent in the practice, for they cannot themselves justify the practice. To justify practices, Hegel would turn to the standard of rationality. Rationality is a predicate of individual practices or laws and of ethical life as a whole. The former are rational if they are integral parts of the latter. Hegel argues practice is justified in part if it coheres with the other practices and institutions in a system of ethical life that promotes freedom.”
28. Kevin Thompson (2017: 65) refers to this as the “retrogressive ground” which means that we look for freedom as the inherent ground for our social norms, institutions, and forms in general: “[T]he justification of the concept of right consists in its being shown to be the immanent and necessary ground – the result or truth, as Hegel will say – of the more basic, and thus less determinate, concept of freedom.”

29. I think this renders Mark Alznauer's otherwise useful interpretation of Hegel's theory of justification problematic. For Alznauer (2015: 98), "[A] responsible agent, for Hegel, is someone who knows herself to be subject to some standard of right and wrong that transcends her desires and choices. And we have seen that Hegel thinks achieving this self-conception is impossible in the state of nature because an individual only has actual (*wirklich*) rights and duties when she is a recognized member of a state. . . . [T]he concept of action (*Handlung*) must be restricted to the kind of behavior that can be evaluated according to whether it is justified or not; and actions are justified to the degree that they conform to those *a priori* determinations of right that have achieved actuality in existing laws and customs." Because it subscribes to an intersubjectivist model of sociality, this interpretation is vulnerable to the problems of relativism and reification. There must be a metaphysical component to the reasons we endorse and to the ontological forms of life that are being endorsed.
30. Cf. the discussion in Thompson (2015). Hegel has a keen sense of what kinds of pathologies are implicit in modern forms of life. Allen Wood (1990: 201–202) notes, for instance: "Individuality degenerates into alienation unless it is supported socially by solidarity with a 'corporation' in which the individual's dignity receives recognition. Without that solidarity, society dissolves into a heap of atoms, abstract private persons whose personality has no ethical life." The reality of social pathology has not been properly explored in contemporary Hegel scholarship. However, it is something that Hegel himself pointed to, particularly in the 1821/1822 lectures on the *Philosophy of Right* (see Hegel 2005: §§196–204) and it is a central concern of his dialectic of civil society. Nevertheless, Hegel's awareness that such pathologies existed means that there has to be some sense in which critical agency does more than simply harmonize with already existing institutions and norms. It must also be able to critique those norms and institutions when they become defective and cause pathologies to emerge.
31. Hegel makes this clear in the section on "universal self-consciousness" in the *Enzyklopädie*. "In this stage [of universal self-consciousness], therefore, the mutually related self-conscious subjects, by setting aside their unequal particular individuality, have risen to the consciousness of their real universality, of the freedom belonging to all, and hence to the intuition of their specific identity with each other" (*Enz*: §436z).
32. For similar views, see Ikäheimo (2016: 49–67) as well as Thompson (2018: 204–223).
33. As Hegel (*PhR*: §316z) notes: "What is now to be taken as valid derives its authority no longer through force, even less through habit and custom, but properly through insight and rational reasons (*Einsicht und Gründe*)."
34. For an elaboration of this latter view, see Honneth (2011).

References

- Alznauer, M. (2015). *Hegel's Theory of Responsibility*. Cambridge: Cambridge University Press.
- Beiser, F. (1995). Hegel, A Non-Metaphysician? A Polemic. *Bulletin of the Hegel Society of Great Britain* 16(2): 1–13.
- Brandom, R.B. (2007). The Structure of Desire and Recognition: Self-Consciousness and Self-Constitution. *Philosophy & Social Criticism* 33(1): 127–150.
- Bristow, W.F. (2007). *Hegel and the Transformation of Philosophical Critique*. Oxford: Oxford University Press.

- Buchwalter, A. (2016). A Critique of Non-Metaphysical Readings of Hegel's Practical Philosophy, in A. de Laurentiis (ed.) *Hegel and Metaphysics: On Logic and Ontology in the System*. Berlin: De Gruyter, 71–88.
- Cortella, L. (2015). *The Ethics of Democracy: A Contemporary Reading of Hegel's Philosophy of Right*. Albany, NY: State University of New York Press.
- de Boer, K. (2010). *On Hegel: The Sway of the Negative*. London: Palgrave Macmillan.
- de Vries, W. (1988). *Hegel's Theory of Mental Activity: An Introduction to Theoretical Spirit*. Ithaca, NY: Cornell University Press.
- . (1993). Hegel's Logic and Philosophy of Mind, in R.C. Solomon and K.M. Higgins (eds.) *Routledge History of Philosophy*, vol. VI. London: Routledge, 216–253.
- Fleischmann, E. (1964). *La philosophie politique de Hegel*. Paris: Gallimard.
- Fritzman, J.M. and K. Parvizian (2012). The Extended Mind Rehabilitates the Metaphysical Hegel. *Metaphilosophy* 43(5): 636–658.
- Goodfield, E.L. (2014). *Hegel and the Metaphysical Frontiers of Political Theory*. New York: Routledge.
- Hahn, S.S. (2007). *Contradiction in Motion: Hegel's Organic Concept of Life and Value*. Ithaca, NY: Cornell University Press.
- Hegel, G.W.F. (1970). *Grundlinien der Philosophie des Rechts*. Stuttgart: Reclam.
- . (1986). *Enzyklopädie der philosophischen Wissenschaften*, vols. 1 and 3. Frankfurt, a.M.: Suhrkamp.
- . (2005). *Die Philosophie des Rechts. Vorlesung von 1821/1822*, ed. D. Henrich. Frankfurt a.M.: Suhrkamp.
- Honneth, A. (2011). *Das Recht der Freiheit. Grundriß einer demokratischen Sittlichkeit*. Frankfurt a.M.: Suhrkamp.
- Horstmann, R.-P. (2006). Substance, Subject and Infinity: A Case Study of the Role of Logic in Hegel's System, in K. Deligiorgi (ed.) *Hegel: New Directions*. London: Acumen, 69–84.
- Houlgate, S. (2006). *The Opening of Hegel's Logic: From Being to Infinity*. West Lafayette, IN: Purdue University Press.
- Ikäheimo, H. (2006). Hegel and the Normative Structure of Reality. *Nordic Journal of Philosophy* 7(1): 197–204.
- . (2016). Ethical Perfectionism in Social Ontology – A Hegelian Alternative, in I. Testa and L. Ruggiu (eds.) *"I that is We and We that is I." Perspectives on Contemporary Hegel: Social Ontology, Recognition, Naturalism, and the Critique of Kantian Constructivism*. Leiden: Brill, 49–67.
- Khurana, T. (2017). *Das Leben der Freiheit. Form und Wirklichkeit der Autonomie*. Frankfurt a.M.: Suhrkamp.
- Knappick, F. (2013). *Im Reich der Freiheit. Hegels Theorie autonomer Vernunft*. Berlin: De Gruyter.
- . (2016). Hegel's Essentialism: Natural Kinds and the Metaphysics of Explanation in Hegel's Theory of "the Concept." *European Journal of Philosophy* 24(4): 760–787.
- Korsgaard, C.M. (1996). *The Sources of Normativity*. Cambridge: Cambridge University Press.
- Lafont, C. (2002). Moral Objectivity and Reasonable Agreement: Can Realism Be Reconciled with Kantian Constructivism? *Ratio Juris* 17(1): 27–51.
- Lumsden, S. (2008). The Rise of the Non-Metaphysical Hegel. *Philosophy Compass* 3(1): 51–64.

- Marcuse, H. (1954). *Reason and Revolution: Hegel and the Rise of Social Theory*. Boston: Beacon Press.
- McDowell, J. (2009). *Having the World in View: Essays on Kant, Hegel and Sellars*. Cambridge, MA: Harvard University Press.
- Menke, C. (2013). Hegel's Theory of Liberation: Law, Freedom, History, Society. *Symposium* 17(1): 10–30.
- Moyar, D. (2011). *Hegel's Conscience*. New York: Oxford University Press.
- O'Connor, B. (2011). Concrete Freedom and Other Problems: Robert Pippin's Hegelian Conception of Practical Reason. *International Journal of Philosophical Studies* 19(5): 753–760.
- O'Neill, O. (1989). *Constructions of Reason: Explorations of Kant's Practical Philosophy*. Cambridge: Cambridge University Press.
- Pinkard, T. (1994). *Hegel's Phenomenology: The Sociality of Reason*. Cambridge: Cambridge University Press.
- . (2012). *Hegel's Naturalism: Mind, Nature, and the Final Ends of Life*. Oxford: Oxford University Press.
- Pippin, R.B. (2008). *Hegel's Practical Philosophy: Rational Agency as Ethical Life*. Cambridge: Cambridge University Press.
- . (2011). *Hegel on Self-Consciousness: Desire and Death in the Phenomenology of Spirit*. Princeton: Princeton University Press.
- Plant, R. (1973). *Hegel*. Bloomington, IN: Indiana University Press.
- Rawls, J. (1980). Kantian Constructivism in Moral Theory, reprinted in S. Freeman (ed.) (1999). *John Rawls: Collected Papers*. Cambridge, MA: Harvard University Press, 303–358.
- . (1985). Justice as Fairness: Political not Metaphysical, reprinted in S. Freeman (ed.) (1999). *John Rawls: Collected Papers*. Cambridge, MA: Harvard University Press, 388–414.
- . (1993). *Political Liberalism*. New York: Columbia University Press.
- Riedel, M. (1969). *Studien zu Hegels Rechtsphilosophie*. Frankfurt a.M.: Suhrkamp.
- Rosen, S. (2014). *The Idea of Hegel's Science of Logic*. Chicago: University of Chicago Press.
- Schweikard, D.P. (2013). The Critique of Non-Metaphysical Readings of Hegel's *Philosophy of Right*, in L. Herzog (ed.) *Hegel's Thought in Europe*. London: Palgrave Macmillan, 148–162.
- Stern, R. (2012). *Understanding Moral Obligation: Kant, Hegel, Kierkegaard*. Cambridge: Cambridge University Press.
- Thompson, K. (2017). Systematicity and Normative Justification: The Method of Hegel's Philosophical Science of Right, in T. Brooks and S. Stein (eds.) *Hegel's Political Philosophy: On the Normative Significance of Method and System*. Oxford: Oxford University Press, 44–66.
- . (2018). Objective Spirit: Hegel's Normative Social Ontology, in M.J. Thompson (ed.) *Hegel's Metaphysics and the Philosophy of Politics*. New York: Routledge, 204–223.
- Thompson, M.J. (2015). Capitalism as Deficient Modernity: Hegel against the Modern Economy, in A. Buchwalter (ed.) *Hegel and Capitalism*. Albany, NY: State University of New York Press, 117–132.
- . (2017). Collective Intentionality, Social Domination and Reification. *Journal of Social Ontology* 3(2): 207–229.

- . (2018). The Metaphysical Infrastructure of Hegel's Practical Philosophy, in M.J. Thompson (ed.) *Hegel's Metaphysics and the Philosophy of Politics*. New York: Routledge, 101–141.
- Tunick, M. (1994). Hegel's Nonfoundationalism: A Phenomenological Account of the Structure of Philosophy of Right. *History of Philosophy Quarterly* 11(3): 317–337.
- . (1998). Hegel on Justified Disobedience. *Political Theory* 26(4): 514–535.
- Walton, A.S. (1983). Hegel, Utilitarianism and the Common Good. *Ethics* 93(4): 753–771.
- Williams, R.R. (2013). Freedom as Correlation: Recognition and Self-Actualization in Hegel's *Philosophy of Right*, in D.S. Stern (ed.) *Essays on Hegel's Philosophy of Subjective Spirit*. Albany, NY: State University of New York Press, 155–180.
- Wood, A.W. (1990). *Hegel's Ethical Thought*. Cambridge: Cambridge University Press.
- Yeomans, C. (2015). *The Expansion of Autonomy: Hegel's Pluralistic Philosophy of Action*. Oxford: Oxford University Press.
- Zöller, G. (2015). *Res Publica: Plato's Republic in Classical German Philosophy*. Albany, NY: State University of New York Press.

11 Hegel on a Form of Collective Irrationality

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The postwar, philosophical reanimation of German idealism has been inspired by a number of interests and has focused on a number of texts. By “reanimation” I mean the attempt not only to understand the positions and to chart the influences and inheritances. This is a difficult enough ambition, given that the unusual language devised to express novel positions is a language that has largely been lost and must be relearned. But the idea of a reanimation amounts to an attempt to understand the genuine philosophical achievements of this tradition (or to assess whether there are any), in ways that can be understood to address a variety of living issues. This means approaching the texts with the assumption that one can learn something from them and be challenged by them, and it sometimes requires reformulating the positions in more philosophically perspicuous or familiar terms. Despite all the controversy such an approach has always provoked, it has always seemed to me a simple enough ambition, and it would not make any sense unless one were also committed to avoiding anachronism and too hasty a translation process. One wants to learn something from the philosopher; not merely to use the philosopher as an occasion for expressing one’s own speculation. One would do well to recall that there is an obvious model for this sort of philosophical interrogation of historical texts: Hegel’s own treatment of major figures in the history of philosophy. I concentrate in this chapter on one aspect of Hegel’s project that I think is of great contemporary value. To get there, though, we will need to look at a number of preliminaries.

Hegel is well known for having claimed that philosophy is “its time comprehended in thought” (*ihre Zeit in Gedanken erfaßt*). The implications of this claim are immediately apparent in the *Elements of the Philosophy of Right* (*Grundlinien der Philosophie des Rechts* [*GPR*]) that follows this claim in its preface. That is, Hegel’s *GPR* is not a treatment of the institutions Hegel thinks constitutive of justice for anyone, anywhere, at any time. It is clearly an analysis of the modern understanding and realization of contract, crime, legal and moral responsibility, moral conscience, the modern nuclear family, a market economy, and modern political

institutions. But it is also clearly neither an empirical social analysis of how such a society actually works, nor a pure normative assessment of these distinctive characteristics, measured against some transhistorical ideal.

Moreover, the *GPR* seems to be relatively self-contained. Hegel's argument for the incompleteness of Abstract Right and Morality as ways of understanding "right" (*Recht*) do not appear to depend on some elaborate historical theodicy or on any claim about some comprehensive historical development. Or, if the justification of its claims do ultimately depend on such a theodicy, that historical element appears separable in some way, not appealed to for any support in the body of the text itself. And the argument for such an incompleteness and for the more adequate comprehension of right within ethical life (*Sittlichkeit*) does not appear to rely on systematic considerations, requiring that we understand the account of the "objective *Geist*" within the structure of "subjective" and "absolute *Geist*," or as occupying some position within an encyclopedic account of all the possible philosophical sciences. (This is true, although Hegel does say, also in the preface to the *GPR*, that the outline or *Grundriss* presupposes "the speculative mode of cognition." This is to be contrasted with what he calls "the old logic" and "the knowledge of the understanding" (*Verstandeserkenntnis*), a term he also uses to characterize all of metaphysics prior to his own. He makes explicit that he is referring to his book, *The Science of Logic* (*Wissenschaft der Logik*). But again, no such appeal to the details of a speculative logic seems explicitly called on to do anything in the interrelated claims made in the actual course of the *GPR* itself.

This immediately raises the question of just how time-bound Hegel's account of *Recht* actually is, and, therewith, how we should understand the bearing of his account on our own time, a very different time of mass consumer societies, a globalized economy, very different marriage and divorce conventions, a highly commercialized and manipulable public sphere, and so forth. Some have argued that, even so, there are enough points of determinate contact that some direct relevance is still possible. Some commentators refer to Hegel's account of the limitations of contractarian models of the state or to the limitations of liberal notions of rights protection or his reasons for insisting on a state/civil society distinction. I will follow here another line of thought, highlighting instead the fruitfulness of his approach in general and one unusual aspect of that approach, announced in the title of this chapter.

But both aspects of his original and influential claim that philosophy has a historical–diagnostic task have proven difficult to understand. By the two aspects I mean, first, exactly what is to be understood by the philosopher's "time" and, secondly, what does "comprehended in thought" amount to? Space is limited, so I will simply make a suggestion about each. There would seem to be a simple, clear answer to the former

question. The covering name for the historical institutions and practices that attract Hegel's philosophical attention to a time is *Geist*, whether manifest in subjective, objective, or absolute form, whether *Geist* is the subject of a unique kind of analysis, a phenomenology, whether understood as a *Weltgeist* or *Volksgeist*. For the sake of argument, let us stipulate that our current interest will take *Geist* to refer to a collective mindedness, the forms of which collectivity, the "shapes of spirit" (*Gestalten des Geistes*), change over historical time. Further, any concrete shape of *Geist* is never treated by Hegel as some summary compilation of individually held attitudes, majoritarian views, or even as the direct object of intentional attitudes such as beliefs. However, while there are similarities, *Geist* does not function in Hegel as something like a presupposed "form of life," as it might be found in Wittgenstein, or as *Welt* might function in the early Heidegger. Hegel clearly thinks it is possible to ascribe states and capacities to such a collective subject in a sense identical in many senses to the way we ascribe such states and capacities to individual persons. This goes well beyond the ascription of common, deeply presupposed commitments and assumptions and dispositions. We can even say that a historical form of *Geist* can be reflective about itself and its commitments, can come over time to greater and greater self-consciousness (for example, in and by means of its artworks), and that it can be said to do things for which responsibility can be ascribed. (This last is especially true of states that act in our name as citizens.) We can thus speak of a group agent, or of a social subjectivity. Such a postulation of a common mindedness is not a fiction, or a mere heuristic or theoretical posit. It has ontological status; there *are* such entities. Now, of course, *Geist* cannot be said to behave in all ways like an individual subject or agent. It is not embodied in the same way, can be said to "have emotions" only in a highly metaphorical way (as in a collective hysteria or panic, or in moments like the French Terror). It has a past it carries forward and appeals to, but *Geist* does not remember its past as an individual does, and so on. Nevertheless, Hegel is willing to go very far in what he is willing to claim about such a collective subject, and we will consider one of his most ambitious and initially implausible claims.

Finally, when Hegel describes *Geist* as an "I that is a We," and a "We that is an I" (*Ich, das Wir, und Wir, das Ich ist*), he is committing himself to a dialectical relation between any such collective or group subject and the individual persons who are its participants. That is, such a collectivity is not possible except as constituted in some way by the attitudes and commitments of these participants. It would not exist were there not these attitudes and commitments. This does not reduce in any way the reality of *Geist* as *Geist*; such attitudes and commitments *do* achieve the status of collective intentionality and agency. But the direction of dependence famously goes both ways for him. Individuals should not be understood as, *ex ante*, atomistic, self-sufficient origins of such commitments, as if

Geist comes into being only as a result of constituting acts by ex ante spiritless (*geistlose*) atomic individuals. They are the individuals they are only as already “formed” (*gebildet*) within, and as inheriting, such collectivities. (So, Hegel will insist: “[T]o take conscious individuality so mindlessly as an *individual* existing phenomenon is contradictory since the essence of individuality is the universal of spirit.” [*Die bewußte Individualität hingegen geistlos als einzelne seiende Erscheinung zu nehmen, hat das Widersprechende, daß ihr Wesen das Allgemeine des Geistes ist.*] [Hegel 2013: §304]). This is expressed in full Hegelese, but in itself this is a very old idea, apparent in the work of Aristotle, who was equally as influential on Hegel as Kant; that is, Aristotle’s insistence that, considered outside the *polis*, a human being is not comprehensible as a human being. He is either a beast or a god. But Hegel’s bi-directionality and historicity greatly complicates such a picture. This co-constituting mutual dependence is why Hegel can frequently say something that would otherwise be quite mysterious, that spirit, this social subjectivity, is “a product of itself” (Hegel 1978: 6–7). (*Geist* is this co-constituting relation; the product of individuals who are themselves the products of their participation in *Geist*. *Geist* has no substantial existence apart from this mutual reflection.)

All of this just introduces the first of the two elements in Hegel’s famous claim about the task of philosophy: *Geist* as “its own time.” What could he mean by the second element: the *Geist* of its time “comprehended in thought”? Again a suggestion. Sometimes what he says sounds quite implausible. He will say that philosophy gives the form of necessity to what would otherwise appear merely contingent. When this is said about, for example, the development of the empirical sciences (Hegel 1971b: §12A), it can sound as if Hegel wants to say that the actual course of that development could not have happened otherwise. If this is supported by a claim about a self-transforming, underlying metaphysical entity, “cosmic spirit,” or “God,” developing according to some necessary law of internal teleology, then the claim seems hopeless. At a more modest level, though (and this is how I think he wants to be understood), he could mean that a significant transition in art history or political history or religious history, a shift in collective ethical commitments, can be rendered intelligible by a philosophical account. This account is based on a form of practical contradiction that introduces a more familiar form of necessity, the form appropriate to: “he who wills the end *must* will, or necessarily wills, the means” (otherwise we have evidence that he has not willed the end). If a collective attempt to accomplish some goal can be said to learn collectively that commitment to that end is impossible without commitment to, let us say, a broader and more comprehensive end, then it must pursue such a new end or give up the enterprise. Or, if it develops to show that the means chosen actually make achieving the end impossible, then the means *must* be altered. They are not arbitrarily altered. They *must* be altered, on pain of practical incoherence.

A philosophical account, assuming the rationality of such a teleological enterprise, can show this. It can give the form of (practical) necessity to what would otherwise seem contingent alterations. I said: “assuming the rationality of such a teleological enterprise.” I meant to recall the Hegelian maxim announced in the *Lectures on the Philosophy of World History* (*Vorlesungen über die Philosophie der Weltgeschichte*): “To him who looks on the world rationally, the world looks rationally back” (Hegel 1971a: 23). Here is yet another theme worth several independent articles.

This raises again the question of the adequacy of treating a collective or a group agent as capable of such end-setting, practical rationality, and self-correction. To understand this, we now need a somewhat broader set of considerations. The broadest would involve the long history of treating collective entities as agents, or entertaining the possibility, but denying it, especially in legal contexts and in questions of liability. It extends at least back to Innocent IV in the thirteenth century, who left matters somewhat confused when he called corporate persons *ficta* or fabricated. He could have meant, and was taken to mean both, mere fictions, unreal, or he could have meant “artificial,” not natural, but nevertheless real, not fictional. (He appeared most interested in whether such group agents, like the University of Paris, had a soul and so could be excommunicated. He concluded that they did not and could not be.) Those contemporary philosophers who have defended a robust view on the reality of group agents, like Philip Pettit (List and Pettit 2011), have pointed out that as long as something can be said to satisfy the overall conditions for agency, whether as an individual or group, it should be counted as an agent, and ascriptions of purposes, representations, and reflective attitudes are appropriate. He argues that those conditions are threefold and that they are met by many groups: the capacity to hold plausible purposes as a collective (and this means: purposes *known* to be held and pursued; such group agents must be self-representing agents, not just enterprises represented with a presumed purpose), the capacity to form reliable representations of reality and be responsive to what is represented, and the capacity to act reliably to advance those purposes according to those representations. This last involves the capacity to respond appropriately to what is learned in the course of such a realization, and to adjust activity in the light of learned difficulties or the discovery of incompatible commitments. Fulfilling these conditions is compatible with a wide variety of institutional embodiments, representative associations, or various steering mechanisms. Moreover, Pettit goes on to argue that such groups cannot be said to be constituted by simple majoritarian vote, as if a group agent or *Geist* were simply a *façon de parler*, a way of expressing what “most people” want or believe. Many valuable ends can only be achieved by participation in a group, and the so-called “discursive dilemma” in legal theory has shown that it would be irrational to participate in such a group if the only reflective, deliberative

procedure were majoritarian, a mere sum of individual preferences. A situation can easily be shown to develop in which such a group would have to be committed to an end that is in fact rejected by all the members of the group in their individual role. The details of this argument (which depends on a series of disjunctive choices) need not concern us here. It is another way of arguing that a genuine group agency must be subject to some reflective procedure in a real process of *coming* deliberatively to *form* a view or voice, all in ways not limited to a merely summative procedure.

The lesson here is that what makes a group a group agent is that it possesses a certain form of rational unity, a unity that must be knowingly achieved and sustained. This means that the group is sensitive to inconsistencies in group commitments, empirical facts inconsistent with shared beliefs, and a formation process for commitments and beliefs that is genuinely formative, not merely expressive of collected individual commitments and beliefs. In this sense, some group agent, like “the polis” of ancient Thebes, may take itself to be such a rational unity, but in an enactment of its commitments may discover that it is collectively committed to conceptions of familial obligation and to conceptions of political obligations that are not practically compatible. *Geist* can appear to have, or be collectively taken to have, the required rational unity, but come to discover that it does not have it. Tragedy ensues. A revision of the commitments is necessary. The community can be said to have learned, and acted on such learning, perhaps, to invoke another play, in the establishment of the homicide courts at the Areopagus, as in Aeschylus’s *Eumenides*.

Admittedly, the institutions and issues that Pettit is concerned with are multiple in a society and need have no particular relation to one another. That is, he takes no position on the question of whether various group agents, like corporations, universities, hospitals, armies, states, churches, could also be said to be, or must be understood to be, themselves elements of one “common mind,” to borrow the title of one of Pettit’s books (Pettit 1993), much like the way individuals are determinate individuals at all only within purposive groups. But it is not much of a leap to claim that this would be a necessary extension of the account. For one thing, many individuals are often members of several such groups and they would be subject to conflicting or incompatible commitments. The awareness of such conflicts would be unavoidable and so practically incoherent, were there no way of thinking of such several group agents as at least compatible. “Compatible,” though, would still not get us to the more ambitious status of *Geist*. To reach that, we need a common like-mindedness in which institutional commitments are also not indifferent to one another even if logically compatible. Rather, they must genuinely cohere, or make some sense as enterprises that *belong* together. *These* art practices, for example, would be the art practices engaged in by persons

engaged in *those* religious practices, *that* civil society, *those* sorts of universities, *that* conception of the purposes of an army, *that* political constitution, and so forth. That overall unity would be yet another name for *Geist*. Universities must take account of the religious preferences of their students. Religions must take account of the needs of an army, and so on. We can consider *Geist* the highest level, self-unifying rational form of unity in a community at a time.

There is little doubt that Hegel thinks of such a super-structural subject as such a substantial unity. In the passage where he introduces the notion in the *Phenomenology of Spirit* (*Phänomenologie des Geistes* (*PhG*)), *Geist* is called “this absolute substance which constitutes the unity of its oppositions in their complete freedom and self-sufficiency, namely, in the oppositions of the various self-consciousnesses existing for themselves: The *I* that is *we* and the *we* that is *I*” (Hegel 2013: §177).

It is at this level of abstraction that Hegel wants to portray one such collective subject, Western *Geist*, the distinct inheritor of its Greek beginnings, as engaged in a practical, purposive project, a struggle for full self-understanding across historical time, propelled forward in that attempt by a series of breakdowns in the coherence of its self-consciousness. These breakdowns reflect the practical contradictions that we have discussed. We are now at such a high level of abstraction that nothing interesting in any overall defence of this suggestion can be said. But there is a smaller, more manageable topic left.

The Platonic Socrates long ago introduced the idea that there is a revealing analogy between the parts of, and the interrelation between the parts of, the soul and the corresponding parts and interrelations of the polis. But just how far can we go in extending the categories of assessment and analysis at home with individuals in understanding *Geist*? Psychic and political unity (and so health) is the main issue in the *Republic* and Hegel certainly focuses on that issue too. But he seems to go much farther.

One phenomenon (one that Pettit has also devoted attention to) is collective *akrasia*, weakness of the will. It is easily conceivable that, at the requisite level of abstraction, a community might express its allegiances to various courses of action; equality before the law, for example. Each person accused should have exactly the same status, entitlements, and other freedoms as anyone else. The commitment is formally enshrined in a basic law and is implicitly and explicitly affirmed in various rituals and pronouncements. In practice, however, wealthy people turn out to have an enormous advantage, and rates of conviction for persons above a certain income level are strikingly lower. Everyone knows this, and knows of, even affirms, the collective commitment, but no one does much of anything truly reformist. The irrationality occurs, we could plausibly suggest, because, while the commitment may be sincere (or at least not held hypocritically or in cynical fraudulence), the costs and efforts of

realizing it are so high that when occasions emerge to address the problem, it is easier to hedge, dissemble, plead unavoidable constraints, one-time exceptions, and so on. If we conceive of both individuals and *Geist* as some sort of unity among multiple motivational voices clamoring for attention and allegiance, it is not difficult to imagine incentives to attend to one or another voice at the expense of others: the one that provides the easiest or most self-interested path forward. How this exactly happens in either case might not be easy to understand, especially since this contradiction is available to consciousness or public explicitness. In various contexts in the *PhG*, as in the section on “Virtue and the Way of the World” (*Die Tugend und der Weltlauf*) or the “Beautiful Soul” (*Die schöne Seele*) that cannot bring itself to act, Hegel appears to be thinking of something like this. The standpoint of *Tugend* demands that the agent “sacrifices” everything of his individuality, his role in the *Weltlauf*, but when it comes to acting on such a complete self-denial, he cannot. He cannot live up to his principles without practical incoherence. (Here we have to say as well that what might look like “weakness,” might actually be the result of an incomplete and distorted practical self-knowledge.) And Hegel uses the language of strength or force to explain the dilemma that the “Beautiful Soul” is caught up in:

Inasmuch as the self-certain spirit as a beautiful soul does not now possess the strength to empty itself of the self-knowledge which it keeps to itself in itself, it cannot achieve a parity with the consciousness it has repulsed, and thus it cannot achieve the intuited unity of itself in an other, and it cannot attain existence. Hence, the parity comes about merely negatively, as a spirit-less being.

(Hegel 2013: §668)

But how could one be “pulled” in one way by one of the possible motives at hand and not be just as aware of the demands of coherent rationality as clearly as if one were not so “pulled”? Whatever problem there is, it does not appear greater in the group than in the individual case, and it seems equally familiar in both.

At one point in the *PhG*, Hegel also begins to discuss what he calls “the world of self-alienated Spirit” (*die Welt des sich entfremdeten Geistes*) (Hegel 2013: §793), and he returns to that characterization in accounting for several phenomena. These are cases of collectively held ideals, like state power and wealth (*Staatsmacht und Reichtum*), or the availability and inevitability of a perspective on every action of both the valet’s lower, unmasking, deflationary perspective – what Hegel calls baseness or *Niederträchtigkeit* (seeing corrupt motives and weakness and hypocrisy everywhere) – and yet also a more generous or magnanimous perspective, what he calls noble-mindedness – *Edelmütigkeit* (something like an ability to see the genuineness with which the ideal is held, despite the

failures). Both are equally possible reactions to the lack of fit between professed ideal and what is actually done, a dreadfully familiar and frequent phenomenon that is ordinary life. He wants to raise a question that is difficult to address in traditional philosophical terms: What accounts for the attraction of one attitude as opposed to the other? This is similar to the situation described when Hegel assesses the philosophical significance of tragedy, but in a state of greater *Bildung*, or cultural maturation, the conflicting commitments do not force a tragic choice, one whereby acting well must also be acting wrongly. In effect, they can be “hidden” more successfully, something that requires a more complicated psychology than available to the ancients. Such a state of alienation is a state of irrationality, but at the self-reflective level, in which, given the level of self-knowledge attained by some community, reflective coherence is not possible, and a certain kind of dissemblance is needed and possible. (It is this dissemblance that has replaced tragedy in the modern world.) It is also important that Hegel describes this situation as *self-alienated Geist*. This means that it is not a contingent manifestation that just happens at some moment in time. The situation has not happened to *Geist*; *Geist* has done something to bring it about – alienated *itself*. The phenomenon can thus be rendered philosophically intelligible, along the lines of practical necessity and contradiction discussed before. The situation also means that not only is *Geist* alienated from itself in this reflective sense but individuals cannot be said to be able to experience as coherently satisfiable the claims made on them by their membership in the group unity. They are thus alienated from their own collective identity, bound to it but repelled by it at the same time. Moreover, the processes by which the mutual interdependence of individual and collective identity come to be formed are certainly not necessarily fixed and can be as much in dispute as any result of this formation process. One might well find oneself confronted by possibilities of work, or options among ideal general commitments, or political choices, none of which are experienced as possible expressions of one’s own commitments and talents. They are merely the only ones available, but they can appear “strange,” foreign, merely positive, and so forth, even though one might voluntarily and effectively affirm them by what one says or does. As with *akrasia*, though, none of this need be evidence that the group identity or agency is really not what it presents itself as, all because of this alienation. The experience itself suggests rather that something is going wrong, some necessary unity is lacking, something essential to one’s practical identity, and the realization of that identity is not possible.

But if that phenomenon can be borne only by a kind of dissemblance, there is a natural link with the next phenomenon: a form of dissemblance. For he says such things as the following. In his initial discussion of “True Spirit, Ethical Life” (*Der wahre Geist, die Sittlichkeit*), Hegel first

points out that the commonly shared ethical substance of the polis in the classical period

breaks itself up into a differentiated ethical essence, into a human and a divine law. Likewise, in terms of its essence, self-consciousness, in confronting substance, assigns itself to one of these powers, and, as knowledge, it divides itself into both an ignorance of what it is doing and a knowledge of what it is doing, and it is thus a deceived knowledge.

(Hegel 2013: §444)

He is talking here, ultimately, about the way Creon and Antigone argue with each other in Sophocles's *Antigone*, each speaking as if wholly ignorant of the credibility of counterclaims expressed by the other, although this is just a pose. This is an aspect of Hegel's account that is strikingly modern and not much attended to. Each knows what he or she is doing in defending the position, but in pretending not to understand such a claim's relation to credible counterclaims, they do not know what they are actually doing with its absolutism, and are, in a remarkable phrase, not making a false claim to know, but expressing a deceived knowledge (*betrogenes Wissen*). Hegel thus introduces all the classic problems of self-deceit. How is it possible for some individual manifestation of *Geist* both to know what it knows and be ignorant, in some way make itself ignorant, of what it knows?

This expression is hardly a unique reference in Hegel. He had introduced the general topic of deceit in the section "Reason," specifically in the part called "The Spiritual Realm of Animals and Deception; or the Thing that Matters" (*Das geistige Tierreich und der Betrug, oder die Sache selbst*). It is in this section that he insists on the social – that is, the public and performative and thus socially dependent – character of actions. At one point, he notes the following:

Since within this alternation consciousness has one moment for itself as essential in its reflection, while it has another merely externally in consciousness, or for others, what thus comes on the scene is a game individualities play with each other; in this game, each finds himself to be deceiving himself as much he finds each to be mutually deceiving each other.

(Hegel 2013: §415)

This seems like a kind of riot of deception and self-deception. And it is important to note again that Hegel is not talking here about individual pathologies. As with collective *akrasia*, there is some general disconnect between a collective self-representation and what such a group or super-group agent actually does. In all three cases we have seen, the problem

is the achievement of the rational unity necessary for rational action. In fact, these appeals to self-deception appear to be much more important or inclusive than *akrasia*. Our case of an expressed commitment to equality before the law, matched by no effective action, is much more likely an indication that *there is no such commitment*. In this sense, there can clearly be collective self-deceit. Accounted for this way, it means that the interesting originality of Hegel's account of self-deception in this and many other cases is that it is not exclusively psychological, not a matter of a subject "hiding" something from, and inside, itself, prompting a hunt for deeper and real motives. The *actuality* of a motive is apparent only in action, in what one is willing to do. It is in this enactment that self-deception, that this disconnect, manifests itself. If we think of both individual and group agents as including multitudes of possible voices for different motives, we can then look to how any agent might avow one intention that is possible but not manifest in deeds, and then dissemble. This might involve a plausible but still false description of the act content itself. At any rate, such appears to be the central claim in the "*die Sache selbst*" section. The "Beautiful Soul" could just as easily be said not to be committed to his view of action, because he does not act on it. He is self-deceived, not weak.

In discussing Diderot's *Rameau's Nephew* and what is the height of self and social alienation in the *PhG*, Hegel again invokes the concept of deception. In discussing "the musician," he means to say that the nephew's claim to be identity-less, and so capable of theatrically enacting any role, that there is no difference between such theatricality and the real social functions, is not only false, and not only deceives others, but is a case of self-deceit:

The content of spirit's speech about itself and its speech concerning itself is thus the inversion of all concepts and realities. It is thus the universal deception of itself and others, and, for that very reason, the greatest truth is the shamelessness in stating this deceit.

(Hegel 2013: §521)

Finally, there is Hegel's most pointed example, that of modern moralism. This occurs when some agent, or group agent, or super-structural group agent, *Geist*, assumes the role of moral judge and subjects everyone to a rigorous moral accounting, one in which they are always found wanting, never truly acting dutifully but always self-interestedly. (Again, to say that *Geist* can assume the role of moral judge is just to say that there is a means of collective self-representation that is not a mere summative result and avows adherence to such ideals.) Such rigoristic condemnation is, according to Hegel's view, irrational, self-contradictory even, and he suggests that no one can be presumed to have adopted such a stance *without also being aware that it is self-contradictory*. It demands

that individuals not be the individuals they are, that morality is asking for some conformity to strict standards that are impossible to fulfill. He suggests also that this realization will eventually win out, that there will be something equivalent to the Christian confession that “we are all sinners,” and this confession will occasion some mutual forgiveness. This is a strange moment in the *PhG*, as if he thinks that the burden of this rigorous moralism and the self-deception it requires is impossible to bear. Whereas many of the other transitions in the book seem to follow some intellectual or conceptual realization of a practical contradiction, this one seems more existential and dramatic. However, for our purposes, he was obviously wrong in *any* sense about this. Such self-deception can clearly be borne quite well. Indeed, self-deceived moralism has reached something like epidemic proportions in the post-Hegelian world, our world, something that is not merely the “fault” of the self-deceived, but also of their audience. Gullibility is also a form of self-deceit (“hearing what one wants to hear”) and is as culpable. As Bernard Williams (2005) pointed out, in such cases self-deceiver and self-deceived are actually “conspiring” with one another.

This leaves us with many questions. For one thing, while Hegel invokes the concept of self-deception in an ancient context, it is not an ancient notion and does not seem to have any resonance in that literature. Hence the question: When did it first become an important analytic tool, and might this show us some characteristic of the modern condition itself?

There is also the question of its possibility, or how one might dispel the aura of the complete paradox that surrounds it. I have already suggested one way in which that might go, given Hegel’s unusual understanding of the inner–outer relation in action. But the larger question involves a return to our earlier reflections on the bearing of Hegel’s treatment of historical *Geist*.

In fact, there is, from Hegel’s point of view, reason to believe that the complexity of our situation has created something quite unprecedented for which only his philosophy, with its ability to explain the “positive” role of the negative, and the reality of group agency and collective subjectivity, can account. Life in modern societies seems to have created the need for uniquely dissociated collective doxastic states, a repetition of the various characters in the drama of self-deceit narrated by the *PhG*. This is where we sincerely believe ourselves committed to fundamental principles and maxims we are actually in no real sense committed to, given how we act. This would be the sense in which Kierkegaard thought most modern people were (that is, were not) “Christians.” This is not an idle reference. How else might we explain something like some “association of wealthy robber baron Christians” (which must exist somewhere), or billionaire Communists?¹ The principles can be consciously and sincerely acknowledged and avowed, but, given the principles they are, cannot be integrated into a livable, coherent form of life. The social

conditions for self-deceit in this sort of context can help show that the problem is not rightly described as one where many individuals happen to fall into self-deceit. The analysis is not a moral one, not focused on individuals. It has to be understood as a matter of historical *Geist*, in the sense in which it is the point of this chapter to make plausible. Or we *are* committed to various policies that, nevertheless, we would, again in all sincerity and by means of the various representative practices available to *Geist* at a time, disavow, even though our actions again betray us.² In his early works, Hegel claimed that the need for modern philosophy itself arises as an attempt at a reconciliation of what that philosophy had left in “disunity” (*Entzweiung*) (Hegel 1968: 9), and a striking sort of disunity is this dissociated relation to ourselves. This seems especially to be the case in the political world.

Of course, it is also the case that there is in modern politics, as perhaps there has always been, massive outright, deliberate deception and fraud. This is sometimes even praised, not just admitted as necessary. I refer to Machiavelli’s famous case that the needs and interests of government are sufficiently different from those of individuals as to justify, even to regard as virtuous, practices of deception (Williams 2005: 607). So the National Security Agency (NSA) claimed not to be doing what Snowden’s documents showed they were doing, and they certainly knew that. No doubt there was some self-deceit involved in the justification, but they knew they were lying through their teeth. There are also many other examples and they are not limited to politics. Cigarette companies discounted the risks of smoking, even when they knew otherwise. One could go on almost infinitely.

But collective self-deceit of the kind explored – and I would say, for the first time explored – by Hegel is a different and arguably an even more widespread phenomenon. As Williams pointed out, the entire political world now seems inconceivable without it, with politics understood as the field on which what plays out is an externalization of a particular sort of group agent, namely government. Political actors are presented, and present themselves, Williams suggests, like actors in a soap opera, playing roles in which they neither cynically pretend to represent positions they know to be false (not always or mostly, anyway), nor, given the theatricality, exaggeration, “posing,” and the “protest too much” rhetoric, do they comfortably and authentically inhabit those roles. Williams’s description is memorable:

They are called by their first names or have the same kind of jokey nicknames as soap opera characters, the same broadly sketched personalities, the same dispositions to triumph and humiliations which are schematically related to the doings of other characters. One believes in them as one believes in characters in a soap opera: one accepts the invitation to half believe them.

(Williams 2005: 615)

He goes on to say that “politicians, the media, and the audience conspire to pretend that important realities are being considered, that the actual world is being responsibly addressed” (Williams 2005: 615). And, of course, it is not being addressed. The whole strategy is an attempt to avoid doing so.

Despite everything that has been said here, I realize that it may still strain credibility, even plausibility, to say that this is all best accounted for by saying that *Geist*, in this case the communal *Geist* of a nation, is, in its self-representations, engaging in collective self-deceit. But if it is initially plausible, it means that there is perhaps a different and better way to assess the contemporary relevance (what is in German the *Aktualität*) of Hegel’s social and political philosophy than the “remaining points of contact” institutional approach. In point of fact, this issue of contemporaneity is tightly connected with the general issue of collective self-deceit. As presented here, such a phenomenon is a means for avoiding the acknowledgment of what one nonetheless knows to be true: that there is a disconnect between consciously held principles of action and the actual actions that result. The need for such a strategy can be understood by understanding the basic claim of the *GPR*, about the practical irrationality that would result were not the institutions of Abstract Right and Morality understood as moments within an overarching, common ethical life or *Sittlichkeit*. If it is true that without such an ethical commonality, and, crucially, its distinguishability from civil society, various collective principles would appear insufficient, irrational, subject to practical contradictions, then, understandably, the temptation to collective self-deceit would be great; greater and greater even.

I would suggest that this is exactly the situation we find ourselves in, in anonymous mass societies, in which the absence of what, according to Hegel, amounts to genuine commonality, that is, *Sittlichkeit*, is a felt absence, not merely an indeterminate absence. Understanding such a situation as something essential to understanding the prevalence of collective self-deceit is preferable, I suggest in conclusion, to pointing to some sort of moral decay in individuals, inauthenticity, or moral cowardice, an accusation that would itself be an instance of the self-deceit Hegel detects in the institution of morality.

Notes

1. For all of Kierkegaard’s explicit and contemptuous anti-Hegelianism, this situation is perfectly Hegelian, given that Hegel claims that determinate negation is equally also positive. In Kierkegaard’s terms, those who take themselves to be Christian are really *not Christians*, where this does not mean they are Muslims or Jews or atheists; they *are Christian* non-Christians. And conversely, there is also a principled way of not-being a Christian (realizing its enormous difficulty, perhaps its impossibility) which is the only way one can be a Christian. (This touches on a well-known objection to Hegel: that he confuses

contrariety with contradiction.) I use Kierkegaard as a dramatic example, but there are a number of ordinary ones. “We all *believe*” that global warming is precipitating an unprecedented catastrophe. Do we?

2. In Pippin (2008: ch. 6), I try to show what conception of subjective mindedness and objective, public deed we need, according to Hegel, in order to account for such states, and suggest why they should not be seen as exceptional or isolated puzzle cases.

References

- Hegel, G.W.F. (1968). Differenz des Fichte’schen und Schelling’schen Systems der Philosophie, in Rheinisch-Westfälische Akademie der Wissenschaften (ed.) *Gesammelte Werke*, vol. 4. Hamburg: Meiner.
- . (1971a). Enzyklopädie der philosophischen Wissenschaften im Grundrisse (1830): Erster Teil: Die Wissenschaft der Logik, in E. Moldenhauer and K.M. Michel (eds.) *Werke in 20 Bänden*. Frankfurt a.M.: Suhrkamp.
- . (1971b). Vorlesungen über die Philosophie der Geschichte, in E. Moldenhauer and K.M. Michel (eds.) *Werke in 20 Bänden*. Frankfurt a.M.: Suhrkamp.
- . (1978). *Hegels Philosophie des Subjektiven Geistes/Hegel’s Philosophy of Subjective Spirit*, 3 vols, trans. and ed. M. Petry. Dordrecht: Springer.
- . (2013). *Phänomenologie des Geistes / Phenomenology of Spirit*, trans. T. Pinkard. URL= <<http://terrypinkard.weebly.com/phenomenology-of-spirit-page.html>> (accessed 12 October 2017).
- List, C. and P. Pettit (2011). *Group Agency*. Oxford: Oxford University Press.
- Pettit, P. (1993). *The Common Mind*. Oxford: Oxford University Press.
- Pippin, R.B. (2008). *Hegel’s Practical Philosophy: Rational Agency as Ethical Life*. Cambridge: Cambridge University Press.
- Williams, B. (2005). Truth, Politics and Self-Deception, in *In the Beginning was the Deed: Realism and Moralism in Political Argument*, ed. G. Hawthorn. Princeton: Princeton University Press, 154–64.

Section 3

Hegelian Perspectives on Contemporary Politics



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12 Saving Multiculturalism with Stakeholding

Hegel and the Challenges of Pluralism

Thom Brooks

Introduction

In 2011, the then British Prime Minister David Cameron declared that multiculturalism has failed (BBC News 2011). He claimed the United Kingdom required “a lot less of the passive tolerance of recent years and much more active, muscular liberalism” in order to combat Islamist extremism and integrate immigrant communities into British mainstream culture. Cameron was hardly the first world leader to make this argument. A year earlier, German Chancellor Angela Merkel claimed that Germany’s multicultural society had “failed utterly” for similar reasons (BBC News 2010). She argued that minority immigrant groups needed to do much more to integrate and assimilate to the dominant culture. Many others agree, not least the president of the United States, Donald Trump. The view that multiculturalism has failed has key supporters among leading political scientists, too. The late Samuel Huntington (1996) claimed that multiculturalism was essentially an anti-Western ideology that denied a common culture in the United States, among other places.

Their concerns are real: there is a rising sense of alienation and disconnection that is a major problem. Citizens are becoming more disunited not only about values, but also facts, with the rise of “fake” news and widespread distrust of the media and political elites. The social and political world has, in turn, become alienated from increasing numbers of people who feel their voices do not resonate with those in power. Multiculturalism, and by extension immigration more generally, has taken the blame for creating a climate of disconnection and dispossession.

However, these world leaders are wrong to believe that multiculturalism and solidarity are mutually exclusive. This chapter challenges this increasingly dominant view taking the following steps. First, I will examine the central concern – alienation – and Hegel’s analysis of alienation offers an insightful understanding of the kind of problem this is. Secondly, I will proceed to consider his proposed solution of stakeholder reconciliation. This is the idea that overcoming alienation requires a form of conviction about self and other consistent with multicultural citizenship.

1. The Problem of Alienation

Alienation matters for critics of multiculturalism because the latter is seen to institutionalize fragmentation and disconnection. From Cameron and Merkel to Huntington and Trump, many world leaders view multiculturalists as dividing society against itself and weakening its foundation. Yet none provide any analysis of what could potentially render multiculturalism alienating.

Hegel's primary contribution to political philosophy – his *Philosophy of Right* – may seem an odd choice for developing a defense of multiculturalism.¹ While he considers religious differences, Hegel tended to treat the topic of cultural differences separately, such as in his work on evolving historical development (Hegel 1975). Instead, the *Philosophy of Right* focuses on the development of freedom and how “the free will wills the free will” (Hegel 1991: §27). What is of interest from the point of view of concerns about the alienating effects of multiculturalism is Hegel's discussion of those who are unfree: namely, individuals who are alienated. This analysis of why their disconnection is a problem is deeply insightful and connects with the concerns of multiculturalism's critics that multiculturalism is itself alienating. This section considers Hegel's analysis of the problem before turning to his solution in the next section.

Hegel's understanding of alienation falls under his comments about poverty. He says those in poverty are “more or less deprived of all the advantages of society, such as the ability to acquire skills and education in general, as well as the administration of justice, health care and often even of the consolation of religion” (Hegel 1991: §241). This poverty can give rise to a “rabble” (*Pöbel*). Hegel wrote:

When a large mass of people sinks below the level of a certain standard of living . . . that feeling of right, integrity [*Rechtlichkeit*], and honour which comes from supporting oneself by one's own activity and work is lost. This leads to the creation of a *rabble*.

(Hegel 1991: §244)

This comment can give the appearance that, for Hegel, the problem of poverty is fundamentally about those in financial hardship. However, Hegel is clear that individuals both rich and poor can be part of this rabble (see Hegel 1991: §244A).

This is because the rabble's poverty is not material, but social. Hegel says:

Poverty in itself does not reduce people to a rabble; a rabble is created only by the disposition associated with poverty, by inward rebellion against the rich, against society, the government, etc.

(Hegel 1991: §244A).

Those in poverty share a common mentality, *a conviction*, about their identity in relation to others in society. Their condition is defined not by need (economic poverty) but connection (a poverty of recognition). Not everyone in a rabble may be poor, yet they will all share a sense of social separation. Hegel says that the rabble might not only lack work but fail “to *feel* and *enjoy* the wider freedoms, and particularly the spiritual advantages, of civil society” (Hegel 1991: §243). This lack of feeling and “inward rebellion” is what transforms individuals into a rabble (see Hegel 1991: §§243, 244, 244A).

Alienation is a central threat of modernity. This is because those who are alienated will see themselves as disconnected from society altogether. The laws and institutions of the state appear to them as an imposition by others and for the benefit of others over which they have no say. No matter how hard they might try or how loud their voice, the alienated see such efforts to engage with others in society as pointless and so disengage.

The phenomenon that Hegel is discussing has clear resonance with contemporary societies. From the surprise vote for Brexit in the United Kingdom to the improbable rise of Trump in the United States, we see a widespread and deepening distrust of political elites and mainstream media. People are increasingly alienated more generally and looking for alternatives – with added desperation – that might speak to their sense of dispossession.

The vote for Brexit was famously centered around the motto “take back control.” Prior to the referendum being called, the public did not have strong views on the EU or rate it as a significant concern (Brooks 2019). Yet the call to take back control from faceless and sometimes foreign elites had strong resonance. An alienated public saw its social and political life as an other to it. This conviction about separation and lack of solidarity has helped fuel the conclusion for some world leaders that multiculturalism is somehow eroding social solidarity. But is it necessary to prevent multiculturalism in order to reconcile ourselves to the social and political world? No.

2. Stakeholder Reconciliation

Hegel argues that the opposite of alienation is reconciliation. This is, in part, about having a particular perspective that we might call *rational reconciliation*. For example, Allen Wood argues:

Hegel seeks to overcome alienation by rationally reconciling us to the world, comprehending a divine reason, akin to our own, immanent in it. Few of Hegel’s readers today find it natural to adopt rational theodicy as their fundamental relation to their cultural predicament. Accordingly, they should be more willing than he was to consider Hegel’s conception of the vocation of modern individuals

and its fulfilment in the modern state in their practical meaning – as a project in rational ethics.

(Wood 1990: 8)

This perspective emphasizes reconciliation as an achievement of our comprehending intelligibility in the world. We are liberated through discerning its rationality. The truth of such a revelation literally sets us free. Robert B. Pippin claims that “the point of philosophy for Hegel is to comprehend the world, not to change it” (Pippin 2008: 272).

Reconciliation is also a kind of *endorsement*. Michael Hardimon says: “Hegel sought to enable the people of the nineteenth century to overcome their alienation from the central social institutions – the family, civil society, and the state – and to come to ‘be at home’ within them” in a “project of reconciliation” (Hardimon 1994: 1). He adds: “unless and until one endorses the social world in which one lives, one has not attained reconciliation. Reconciled individuals endorse their social world” (Hardimon 1994: 25). So we must not only have a particular perspective on our social and political relationship to others but must come to endorse it.

Reconciliation is more than a perspective accepted by the mind. It is a kind of conviction of the heart captured by the idea of “stakeholding.” This can be explained in a few steps. In the corporate context, stakeholding concerns securing accountability through transparency (Freeman et al. 2010). This approach understands business as more than a machine for profit creation, seeking as much wealth as possible. The idea is that corporate members should be seen as *stakeholders* where each has a stake in collective decision-making and acts as a partner engaged in a joint enterprise for mutual benefit. Therefore, stakeholding claims to offer not only a better model for business management but also to illustrate how a new center-left view of economic justice might be realized (White 2011).

We can remove the concept of stakeholding from its original field of application to provide us with a useful way to understand ethics beyond the corporate governance framework. At its core, stakeholding is a principled conviction about partner relations and shared identity. It is this *ethical* sense of stakeholding that is important, not the neoliberal models that traditionally inform discussions of stakeholding. This concept develops from the principle that *those who have a stake in outcomes should have a say about them*. Crucially, stakeholders do not merely have a stake and a say in the determination of an outcome but they must have a *conviction* in order to exercise it effectively.

A stakeholder conception of society sees its individual members in a particular way. The public are not merely bound by their institutions and laws but they give them life through their active engagement. Legal and political rights are transformed from abstractions into a concrete reality

where individuals may see some part of themselves reflected within the society they inhabit. Their world is responsive to them.

This Hegelian-inspired interpretation of stakeholding improves on existing theories of justice, such as Philip Pettit's work on republican freedom conceived as a form of discursive control (Pettit 2001: 65–103). Citizens exercise discursive control through shared, deliberative engagement where each has the ability and opportunity to participate (Pettit 2001: 70).² This engagement takes the form of multiple political discourses where membership may vary in potentially overlapping debates (Pettit 2001: 72). For Pettit, it is key that each citizen “must be able to see their own signature” in their public attitudes and actions: public deliberation is not “the work of an alien mechanism” but a shared activity of free and equal persons free from arbitrary domination (Pettit 2001: 79). Republican freedom includes an “authorial dimension” whereby citizens are authors of common interests articulated in their politics (Pettit 2001: 160).

Stakeholding improves on this view. Republicanism claims non-domination is secured through discursive control: citizens enjoy republican freedom when they can exercise opportunities for public dialogue without arbitrary interference. Republicans mistake *opportunities* for exercising discursive control through non-domination *as freedom*. They argue that citizens should be held accountable and so lack a right to complain if they fail to exercise opportunities available to them.

The problem is that merely having such opportunities is insufficient. Citizens require ability and opportunity but also the conviction that they are themselves stakeholders. If they fail to see themselves as having a stake in deliberative politics, then they may be insufficiently motivated to make their views known even where opportunities are widely available. This is apparent in the cases of many alienated adult citizens who do not make use of the opportunity to vote. They may each possess the same vote and opportunities for voting as everyone else but still fail to participate where they have a conviction they lack a stake in electoral outcomes.

Now consider the relevance of stakeholding for Hegel's project of reconciliation. The existence of a rabble should be seen as a failure of stakeholding because the members of the rabble fail to believe they have a stake in the community and its activities. As a “disposition,” breaking free of the rabble mentality should aspire to win over minds, but also hearts (Hegel 1991: §244R). The rabble opposes their government and wider society because they perceive themselves as disconnected: the rabble understands the spheres of politics and their laws as institutions that are erected and maintained *by others* and *for others*. If I do not see myself as having a stake in society, then I will perceive myself as alienated from that society and so the bonds of social and political obligation become more fragile (Brooks 2012: 144–146, 186–187). My social world goes on taking no notice of my place in it. The alienated individual may believe him or herself to be socially and politically impotent, or even dead to their social world.

Material conditions can affect, but not determine, the formation of such a conviction. The inability to satisfy my basic needs can contribute to a self-belief of being alienated from others without being any guarantee of it. Social psychology and not economic circumstances alone may better explain why some and not all individuals facing financial hardships and related difficulties are more likely to engage in crime, for example. The concept of stakeholding helps clarify why the rabble mentality is a problem for reconciliation and how it might be overcome – even though such terminology was not used by Hegel.

In the *Phenomenology of Spirit*, Hegel distinguishes between objective law and “the law of the heart” (Hegel 1977: 222). He characterizes any gap between them as a “cruel separation” involving “separation” because it “dispenses with the enjoyment of *itself* in obeying the law, and lacks the consciousness of its own excellence in *transgressing it*” (Hegel 1977: 222). Hegel argues that the law of the heart does not seek “bare conformity” but a more substantial connection: “that in the law it has the consciousness of *itself*, that therein it has satisfied *itself*” (Hegel 1977: 223). If objective law and the law of our hearts identify with each other, there is no longer a separation between the two and objective law no longer appears to a citizen as “an alien affair” and “entanglement” with “a superior power which is only alien to him” (Hegel 1977: 223). Hegel says that such an individual is “*freed from himself*” through being at home in his or her political state (Hegel 1977: 223). This connects with stakeholding: it is not merely that the social world can be a place where I am “at home” but rather that I must possess a certain self-consciousness of myself as being “at home.” I am not reconciled until I gain the relevant sense of conviction, such as my having a stake in my society.

It is essential that we can identify likewise with our social world if we are to be “at home” in it. This is not a case of merely following laws laid down by others but an acceptance in our hearts and not only our minds that ends the sense of unbridgeable separation between the individual and society. Hegel does not argue the individual must agree with the state but rather that individuals should ideally come to agree with each other winning over hearts and minds. What is to be avoided is our adopting the view that our “membership of the state is an optional matter” when, for Hegel, the fact is that it is “only through being a member of the state that the individual [*Individuum*] himself has objectivity, truth and ethical life” (Hegel 1991: §258R).

3. Multicultural Citizenship: Two Models

Hegel characterizes alienation as a poverty of conviction about one’s connectedness with others. It is overcome through a reconciliation with the idea of stakeholding at its heart. Now let us situate Hegel’s position within contemporary debates on multicultural citizenship.

There are two broad approaches to citizenship: passive and active (Brooks 2013). They are distinguished in the following way. Passive citizenship signifies a kind of status. Individuals enjoy equally shared rights and opportunities, such as their being subject to the rule of law and the ability to contest elections. Active, or more republican, citizenship is a kind of engaged relationship. Individuals do not merely enjoy the rights that may arise from whatever status they happen to possess but they engage with other citizens to help shape and develop this connection over time.

There is generally wide support for a normatively informed view of shared, active citizenship whereby our membership is informed by engaged activity rather than a mere status possessed passively. Citizenship is a political concept and is about the relations of people to institutions. A commonly shared view is that the borders that should count are not political boundaries but moral ones: the normative justification for the special duties arising from shared citizenship are grounded on their normative strength. So citizenship based on nonarbitrary connections that links individuals often inhabiting a shared territory can have normative significance. For example, this might be when these connections have intrinsic value for members and do not deny any more general duties to all persons independently of citizenship (see Miller 2007; Margalit and Raz 1990). The borders that count are the ones we draw around people, not the ones found on maps, however convenient the latter are (see Goodin 1988).

The main question then is this: what are these shared connections between us? The idea that citizens possess some kind of common identity is less controversial than the diversity of claims about how this should be substantiated. There are two distinctive and contrasting models that have each received widespread attention.

The first model of multicultural citizenship is defended by John Rawls. He focuses on the problem of political stability over time for modern societies. Rawls argues every society is characterized by the diversity of different “reasonable comprehensive doctrines” its members hold.³ These doctrines concern individuals’ views on values and the good. Doctrines may be religious, philosophical, or moral and include all major religious faiths and leading philosophical approaches. The problem of political stability arises because of the diversity of doctrines held by citizens: we require some model to determine how to resolve conflicts among them. For example, citizens affirming Catholicism might defend different policies on abortion and capital punishment than Utilitarians.⁴

Rawls’s problem is significant because he assumes that any acceptable theory of political justice will secure and maintain equality between citizens. Should citizens disagree about which public policy should be promoted by the state, then Rawls argues the solution to this problem must not prioritize one view of the good over others: we must give equal

respect to the different views about the good held by citizens. We cannot insist everyone affirms the same doctrine but instead must discover some alternative to address our differences (Rawls 2001: 3). Otherwise, the problem is that some may become unequal as some views about the good win support at the expense of others.

Rawls defends the idea of an overlapping consensus as a solution to the problem of political stability (Rawls 1996: 132–172, 2001: 32–38). The argument is that we can respect the diversity of views held by different citizens through building a new consensus that can connect everyone irrespective of whichever view any citizen endorses (Rawls 1996: 10). This consensus is to be constructed through the use of “public reasons”: the claims we may reasonably offer to others to construct an overlapping consensus (Rawls 1999b: 208). A reason is “public” where it can be endorsed by persons across all reasonable doctrines. People with different views might continue to disagree, but policies supported by public reasons are accessible to anyone notwithstanding the different views people might have.

For example, the claim that capital punishment should be banned for the reason that it runs contrary to Catholic doctrine is *not* a public reason. This is because the reason it offers requires us to accept Catholic doctrine if we are to find it convincing. Instead, we should aim to offer public reasons that do not make such demands on others and so at least secure the possibility of acceptance by all. Thus, Rawls’s model is about constructing a shared political conception from across diverse views of the good through the use of public reasons that all could support. Citizens should engage others using reasons all might share.

Perhaps unsurprisingly, Rawls’s model has received much criticism. Some argue a shared commitment to principles of justice is enough to secure political stability and so an overlapping consensus is unnecessary (see Barry 1995; McClennen 1989). Others argue that an overlapping consensus is too weak a bond because the public reasons connecting us might be reasons all *could* accept, but none or only a few *might* accept in fact (see Greenawalt 1995; Wenar 1995). The first criticism fails to recognize the need to engage with the deep differences about the good found in any modern society. The second criticism fails to grasp that an overlapping consensus is not the only connection between citizens accounted for by Rawls (see Brooks 2014).

A second model of multicultural citizenship is defended by Bhikhu Parekh. While Rawls seeks to find ways of overcoming our differences, Parekh embraces them. He recognizes the twin challenges modern societies face. On the one hand, there should be a strong sense of common identity among citizens in order to decide and enforce collectively binding decisions. On the other hand, a strong bond can nurture the inescapable diversity found in every society: “A weakly held society feels threatened by differences and lacks the confidence and

the willingness to welcome and live with them” (Parekh 2006: 196). But how can this be?

Parekh claims that the ostensibly morally and culturally neutral liberalism of Rawls cannot be hospitable to all perspectives. Parekh argues:

[N]o state can be wholly free of moral and cultural biases and the concomitant coercion on those who disapprove of its structure or actions. Even a state that institutionalizes such values as liberty and equality coerces those who are opposed to them.

(Parekh 2006: 202)

The community must choose, and it should not burden itself with trying to be neutral between all views of the good (contra Rawls). This would be an unsurmountable challenge to achieve.

Many classical liberals defend the so-called public–private divide. The idea is that public spaces are the subject of possible state intervention while private spaces are not. So every home is a person’s castle where he or she can act however he or she pleases, but such a freedom ends when interacting with others in society.

Nonetheless, Parekh highlights how this view of the public and the private gets wrong something crucial about culture and religion. The liberal defending this distinction limits the public sphere to exclude culture and religion. This might be part of an effort to demonstrate neutrality. For Parekh, culture and religion defy the public–private distinction. He argues:

Religious persons see life as a whole and seek to live out their deeply held beliefs in their personal and collective lives. . . . If [the liberal] confined religion to the private realm as he generally does, he would discriminate against religious people, alienate them from public life, provoke their resistance, and endanger the very unity for whose sake he excludes religion from the public realm.

(Parekh 2006: 203)

In essence, limiting culture and religion to the private sphere alone is self-defeating. Rather than foster greater unity for all, it may in fact drive citizens further apart and risk political alienation. Our differences concerning values and the good distinguish some from others, but they need not push us apart.

Parekh argues our common *political* identity should be located within our shared political institutions “and not the widely shared personal characteristics of its individual members” (Parekh 2006: 231). The diversity of identities held by individual citizens should be enjoyed and without any stigma of possessing divided loyalties. Any national identity should be defined so it includes all citizens and makes it possible for them to

identify with it. Such an identity must not be merely *located*, but *shared* (Parekh 2006: 232).

So Parekh's model is more comfortable with multiculturalism than Rawls's model: our differences should receive recognition and equal respect, but equal options does not mean equal opportunities in fact. He argues opportunity is a "subject-dependent concept" (Parekh 2006: 241). To say all have the same options to attend a particular school is not to claim each has equal opportunities. For example, all children might have the same option to be admitted to a local school, but the school might ban the wearing of turbans. Such a scenario might fail to provide equal opportunities despite extending the same options because some persons, such as male Sikhs, who want to wear a turban would not be permitted to do so at that school. And so issues of culture and religion are not merely private, and neutrality can lead to outcomes that can disproportionately affect some more than others.

Rawls and Parekh endorse opposing models of multicultural citizenship. Rawls's model views diversity as a problem to overcome. His solution is to create a new shared political conception that can be the focus of an overlapping consensus through the use of public reasons that could be endorsed by anyone. Parekh's model understands diversity as a challenge to be embraced. His solution is to focus on creating a more self-assured sense of national identity as the best means of fostering the cultural and religious diversity we have. Instead of moving away from diversity, it becomes further embedded. Our common unity comes from a national identity all can identify with, such as a shared set of institutions.

Parekh's model of multicultural citizenship more closely connects with the Hegelian-inspired view of stakeholding developed here. Our having a stake and a say in matters impacting on us is not confined to the public sphere alone but extends to the private sphere as well. Stakeholding is relevant throughout our collective lives. This form of political reconciliation takes account of all views of stakeholding but without the necessity of remaining neutral to all views. Moreover, stakeholding is an activity that is shared with one another across our collective institutions. Our world is a reflection of stakeholders – of "us." Crucially, this also reflects our wider diversity.

This view of multiculturalism does not make our world unstable. In fact, instability would be created should stakeholders be silenced – risking the onset of alienation. So stakeholding provides a shared platform of reciprocity as a community of equal stakeholders, without requiring assimilation or domination. As we have seen previously, stakeholding can help improve upon republican theories as well, such as Pettit's. The inherent diversity of perspectives rooted in our engagement with one another in creating a social and political world that reflects ourselves, in turn, reflects our diversity. Anything less would stifle and frustrate

our making good on our having a stake – and so risk alienating us from others.

4. Multiculturalism With Stakeholding

Multiculturalism is a contested concept given to serious misunderstanding. When some world leaders claim it is dead or even dangerous, they view it in ways its defenders would deny.

For example, one view is that multiculturalism is value-neutral and relativistic. This is the view that multiculturalism denies any priority of one view of the good over any other and so its being value-neutral makes it value-free. The objection is that such a view of society does not allow for any common social bonds, making the community politically unstable.

Yet such a conception is so anarchical as to be virtually culture-free. Multiculturalism matters to its defenders because cultures matter to those who value them. In endorsing my particular culture, I give this view importance. We may come to accept and endorse a specific cultural heritage through birth and upbringing, but we do not, and we cannot, choose to endorse in any bona fide way a different culture each day. We inhabit a worldview that is value-rich and in so doing should recognize the similar importance others give to their cultural belonging. This is not relativism, but tolerance, acceptance, and respect.

The second claim is that multiculturalism permits minority cultural views to prevail over a majority. Such views are commonly expressed in the concern that schools are increasingly not permitted to have nativity plays while other, less familiar cultural holidays are celebrated instead.

This view is not compelling either. For a start, there is no evidence that multiculturalism has led to celebrations of the majority culture being stopped so that others might take their formerly dominant position. Instead, the reality is that a multicultural approach has seen traditions old and new develop together – recognizing better the richer diversity of perspectives in our modern communities. It would be wrong to deny a say to those with a stake on matters of such symbolic importance. Multiculturalism poses no threat.

One conclusion is that when it is said that multiculturalism “is dead” this is an aspiration to bring to an end anarchical relativism or the silencing of the majority to please a minority. Such an aspiration is unnecessary because the assumed threat is simply not there.

A second conclusion is that alienation involves a kind of separation and disconnectedness, but there is no evidence that multiculturalism is a cause. The poverty of alienation is an absence of conviction about our relation to others. However, valuing different cultures is no necessary barrier.

A third conclusion is that this sense of separation can be overcome through reconciliation. Endorsing our social and political world through

being “at home” is the opposite of being alienated from it. Furthermore, the Hegelian-inspired idea of stakeholding can be useful in helping flesh out this sense of being reconciled much more.

Finally, this idea of stakeholding has its home in a Parekhian understanding of multicultural citizenship. While Hegel was not explicitly thinking through what we now call multiculturalism, his *Philosophy of Right* develops clear connections to those who do, like Parekh. This helps show how multiculturalism is anything but dead, that it can be saved through appealing to stakeholder reconciliation, and that Hegel has an important contribution to make to our contemporary debates.

Notes

1. References to the *Philosophy of Right* will be to Hegel (1991) and refer to sections (§), remarks (R) and additions (A). Only references to the Preface are to page numbers in the English translation.
2. I do not want to suggest that Pettit’s republicanism is the same as Hegel’s views on political reconciliation. Pettit’s deliberative democratic model is very different from Hegel’s Idea of the State. Yet each recognizes the importance of each individual viewing his or her own “signature” in public policy. For Hegel, the law is not to be some abstract body of rules imposed from above but a product of a community that each can identify with.
3. See Rawls (1996: 24–25, n. 27, 63–64, 129, 140, 144, 147–148, 172); Rawls (1999a: 131); Rawls (2001: 3–4, 33–34, 36, 40, 84).
4. Two clarifications are necessary. The first is that Catholicism is one of many world religions that counts as a reasonable comprehensive doctrine in Rawls’s terminology – and similarly Utilitarianism is one of many philosophical views. These two are used only as one example of a potential conflict between doctrines. The second clarification is that I do not suggest that Catholicism and Utilitarianism are always at odds. My claim is instead that they “might” defend different policies using abortion and capital punishment as an illustration. So, for example, Catholics are opposed to capital punishment, but Utilitarians could support it if its use maximized utility. Rawls’s challenge is determining a method to decide how to resolve such conflicts without choosing one doctrine over another.

References

- Barry, B. (1995). John Rawls and the Search for Stability. *Ethics* 105(4): 874–915.
- BBC News. (2010). Merkel says German Multicultural Society Has Failed. URL = < <https://www.bbc.com/news/world-europe-11559451>>.
- BBC News. (2011). State Multiculturalism Has Failed, says David Cameron. URL = < <https://www.bbc.com/news/uk-politics-12371994>>.
- Brooks, T. (2012). *Punishment*. London: Routledge.
- . (2013). Citizenship, in H. LaFollette (ed.) *International Encyclopedia of Ethics*. Oxford: Blackwell, 764–773.
- . (2014). The Capabilities Approach and Political Liberalism, in T. Brooks and M.C. Nussbaum (eds.) *Rawls’s Political Liberalism*. New York: Columbia University Press, 139–174.

- . (2019). Brexit Means Anything but Brexit: Why the Prime Minister is at a Crossroads and in Need of a Second Referendum. *European Human Rights Law Review* 3: 229–234.
- Freeman, R.E., J.S. Harrison, A.C. Wicks, B.L. Parmar and S. de Colle. (2010). *Stakeholder Theory: The State of the Art*. Cambridge: Cambridge University Press.
- Goodin, R.E. (1988). What Is So Special About Our Fellow Countrymen? *Ethics* 98(4): 663–686.
- Greenawalt, K. (1995). Some Problems with Public Reason in John Rawls's Political Liberalism. *Loyola of Los Angeles Law Review* 28: 1303–1317.
- Hardimon, M.O. (1994). *Hegel's Social Philosophy: The Project of Reconciliation*. Cambridge: Cambridge University Press.
- Hegel, G.W.F. (1975). *Lectures on the Philosophy of World History*, trans. H.B. Nisbet. Cambridge: Cambridge University.
- . (1977). *Phenomenology of Spirit*, trans. J.N. Findlay. Oxford: Oxford University Press.
- . (1991). *Elements of the Philosophy of Right*, ed. A.W. Wood, trans. H.B. Nisbet. Cambridge: Cambridge University Press.
- Huntington, S. (1996). *The Clash of Civilizations and the Remaking of World Order*. New York: Simon & Schuster.
- Margalit, A. and J. Raz. (1990). National Self-Determination. *Journal of Philosophy* 87(9): 439–461.
- McClennen, E. (1989). Justice and the Problem of Stability. *Philosophy and Public Affairs* 18(1): 3–30.
- Miller, D. (2007). *National Responsibility and Global Justice*. Oxford: Oxford University Press.
- Parekh, B. (2006). *Rethinking Multiculturalism: Cultural Diversity and Political Theory*, 2nd edn. Basingstoke: Palgrave Macmillan.
- . (2014). *European Liberalism and "The Muslim Question": Does Intercultural Dialogue Make Sense?* Amsterdam: Amsterdam University Press.
- Pettit, P. (2001). *A Theory of Freedom: From the Psychological to the Politics of Agency*. Cambridge: Polity Press.
- Pippin, R.B. (2008). *Hegel's Practical Philosophy: Rational Agency as Ethical Life*. Cambridge: Cambridge University Press.
- Rawls, John. (1996). *Political Liberalism*, paperback edn. New York: Columbia University Press.
- . (1999a). The Idea of Public Reason Revisited, in *The Law of Peoples*. Cambridge: Harvard University Press.
- . (1999b). Justice as Reciprocity, in S. Freeman (ed.) *John Rawls: Collected Papers*. Cambridge: Harvard University Press, 190–224.
- . (2001). *Justice as Fairness: A Restatement*, ed. E. Kelly. Cambridge, MA: Harvard University Press.
- Wenar, L. (1995). *Political Liberalism: An Internal Critique*. *Ethics* 106(1): 32–62.
- White, S. (2011). New Labour and the Politics of Ownership, in P. Diamond and M. Kenny (eds.) *Reassessing New Labour: Market, State and Society under Blair and Brown*. Oxford: Blackwell, 142–143.
- Wood, A.W. (1990). *Hegel's Ethical Thought*. Cambridge: Cambridge University Press.

13 Hegelian *Sittlichkeit*, Deweyan Democracy, and Honnethian Relational Institutions

Beyond Kantian Practical Philosophy

Paul Giladi

The aim of this chapter is to develop a distinctive Deweyan, democratic interpretation of Hegelian *Sittlichkeit* and to show that this forms the basis of a critical theory in a *broad* sense. I argue that this critical theory not only offers a diagnosis of social pathologies and misdevelopments,¹ such as social misrecognition, social nonrecognition, and invisibilization. It also helps reveal the following *additional* social pathologies and misdevelopments not accounted for by Axel Honneth's elaboration of the neo-Hegelian concept of a relational institution in *Freedom's Right* and *The Idea of Socialism*, namely, epistemic silencing, testimonial injustice, and hermeneutic injustice. The distinctive advantage of my approach therefore lies in its focus on the *epistemic* practices governing misrecognition.

Broadly speaking, Hegel and Dewey both reject the early modern framework that sees the individual as fundamentally separate from society. *Contra* the Hobbesian picture of the individual and corresponding conception of freedom, Hegel and Dewey aim to eliminate the picture of a radical separation of the individual and social institutions by advocating a nuanced sociopolitical holism. According to Hegel and Dewey, freedom is a positive capacity to realize oneself. Crucially, such individual self-realization can only be achieved by construing individuality as necessarily embedded in a social environment structured by and promoting healthy intersubjective relations. Hegel and Dewey not only lament the fragmented and rampant individualism of modernity but are also committed to the view that modern democratic social institutions must be structured in a way that establishes conditions for enabling the realization of autonomy. Conceived in such a manner, both Hegel and Dewey anticipate the Honnethian concept of a "relational institution," namely, an institution which realizes social freedom through symmetrical cognitive practices. Following Honneth, I argue that such a conception of intersubjectively constituted and realized *Geistigkeit*² sheds diagnostic light on a plurality of contemporary social pathologies and

misdevelopments, *by revealing how current social institutions fail to promote intersubjective recognition.*

The chapter begins with charting a genealogical story in which Kant himself anticipates an intersubjective turn that is then robustly developed in the post-Kantian tradition. I argue that Kant's *social* conception of agentive subjectivity in *Idea for a Universal History with a Cosmopolitan Aim* and in *Anthropology from a Pragmatic Point of View* can be viewed as paving the way for Hegel's and Dewey's robust intersubjectivism. I then move on to discussing central features of *Sittlichkeit* and Deweyan democracy, which offer a powerful critique of liberalism. I argue that there are two important positive connections between Hegel and Dewey: (i) social processes and modern institutions are *structured* for the purposes of fostering the development of subjectivities that help individuals achieve self-realization, and (ii) social processes and modern institutions are *assessed* in terms of how well (if at all) they enable the development of unique subjectivities that help individuals achieve self-realization. In the third section of the chapter, I argue that there is compelling reason to suppose Hegel's notion of *Sittlichkeit* and Dewey's notion of democracy have significant *critical* dimensions. The chapter concludes with the fourth section's discussion of #BlackLivesMatter and whether the neo-Hegelian critical theory response recommends revolution or reform.

1. Kant: Paving the Way From Autarky to the Intersubjectivist Critique of Liberalism

One of the most pressing critiques of Kantianism is that Kantian practical philosophy is incapable of explaining how historically concrete, sociopolitical institutions can *embody* values. In other words, the Kantian notion of autonomy is not equipped to make adequate sense of our normative practices and our social embeddedness. Playing a crucial role in this argument is the post-Kantian charge that Kant fails to sufficiently distance himself from a broadly speaking Cartesian conception of *agency*, which views subjectivity as asocial and as ahistorical. For both the German idealists and the American pragmatists, the Cartesian tradition's theory of normative subjectivity needed to be replaced with a model sensitively attuned to a view of autonomy that is articulated *qua* intersubjectivity and later cashed out in terms of *vulnerability* by recognition theory.

Given that in the *Groundwork of the Metaphysics of Morals* Kant conceives of moral rationality in terms of a genus of cognitive procedures wherein each autonomous being determines whether or not their maxims adequately pass the test of universalizability, I think it would not be unreasonable to claim that the overall view of human agency painted by the *Groundwork* is one of agency as "autarky" (Herman 2009: 159). All that is required of rational subjects is that they judge and act on the moral

law *without having to make recourse to other rational subjects to make sense of the sources and authority of moral norms*³ – intersubjectivity and sociality are deemed unnecessary for this cognitive endeavor here. This is not to say that other agents do not figure in our normative deliberation; rather, what Kant seems to be articulating is the notion that an individual rational agent need only reflect on the moral law within themselves in order to understand what is (and what is not) morally acceptable.

While the *Groundwork* focuses on an understanding of morality *solely* focused on respect for the moral law and the self-legislation of an autonomous rational will, the understanding of morality as it appears in *Idea for a Universal History with a Cosmopolitan Aim* and *Anthropology from a Pragmatic Point of View* is one articulated from a different perspective. In these works, Kant places significant emphasis on the *development of the rational capacities of the human species as central to our self-realization*:

Human beings have an inclination to *associate* with one another because in such a condition they feel themselves to be more human, that is to say, more in a position to develop their natural predispositions.

(Kant 2009: 8:20–21)

[The human being] has a character, which he himself creates, insofar as he is capable of perfecting himself in accordance to ends that he himself adopts. By means of this the human being, as an animal endowed with the *capacity of reason* (*animale rationabile*), can make out of himself a *rational animal* (*animal rationale*) – whereby he first *preserves* himself and his species; second, *trains*, *instructs*, and *educates* his species for domestic society; third, *governs* it as a systematic whole (arranged according to principles of reason) appropriate for society.

(Kant 2006: 321–322)

There is compelling reason to think the picture of intersubjective agency and perfectionism in both the *Idea* and *Anthropology* is dissonant with the autarky of the *Groundwork*. For, as Barbara Herman writes, “Among the things that the *Idea* implies is that moral justificatory principles cannot stand alone – they do not describe and cannot guarantee an ethical life” (Herman 2009: 152). In other words, what one finds absent in the *Groundwork* but present in the *Idea* is a commitment to regarding agency and normativity as being constituted intersubjectively in social and historical contexts.⁴

The reason why intersubjectivity replaces autarky is that autarkical reflection on the *form* of norms fails to be *completely* representative of our moral phenomenology, our ethical *Erlebnis*. For arguably the central

feature of intersubjective agency and that of normative social practices – which is made especially vivid by putting vulnerability into the discursive foreground – is how we find ourselves *answerable to one another*,⁵ to the extent that “rational capacities are realized through response to developmentally salient experiences” (Herman 2009: 160). Realization through response to developmentally salient experiences reveals the extent to which we find ourselves embedded in the *social* space of reasons, wherein each rational agent plays the game of giving *and* asking for reasons. Understood in this way, the perfectionist emphasis on development and the inherent sociality of self-actualization is significant: the practice of assenting to and acknowledging normative constraints and normative entitlements requires that “the precise content of those implicit norms is determined through a ‘process of *negotiation*’ involving ourselves *and* those who attribute norms to us” (Houlgate 2007: 139). By virtue of being a process of *negotiation* as opposed to a non-negotiated process, what is deemed appropriate or inappropriate is never *fixed* but always subject to “further assessment, challenge, defence, and correction” (Brandom 1994: 647).

Crucially, as *active* rational agents, we do not view ourselves as normatively self-sufficient. However, this does not mean that we thereby relinquish our status as *independent thinkers*. Rather, it means that we recognize that we are intersubjectively vulnerable and that we continuously check our individual commitments and judgments against the commitments and judgments of our fellow moral agents.⁶ Under this account, a person is free when their rule for action (their maxim) can survive rational scrutiny (can be objectively valid for all rational agents).

What is helpful about this Kantian precis is that acknowledging Kant’s articulation of interdependence, to some extent at least, forms the background of Hegel’s and Dewey’s opposition to a *one-sided* notion of freedom. In doing so, Kant plays an important part in a genealogical story in which Kant himself anticipates an intersubjective turn that is then robustly developed in both the post-Kantian and pragmatist tradition.

2. From the Intersubjectivist Critique of Liberalism to Democracy: *Sittlichkeit* and Dewey

Hegel conceives of the state as a *whole*,⁷ one whose structure is constituted by *mediated unity*. In contrast to Attic ethical life (typified by immediate unity),⁸ in modernity individuals no longer define themselves as a functioning part of the *polis*; and in contrast to modern life, typified by difference,⁹ individuals do not regard their subjectivity as constituted independently of society. The transition from immediate unity through difference to mediated unity, the social freedom of *Sittlichkeit*,¹⁰ is one in which the individual can regard the state as helping

foster the development of their rational capacities and thereby their self-realization. As Hegel writes:

[The norms embedded in the ethical structures of the family/civil society/the state] are not something alien to the subject. On the contrary, his spirit bears witness to them as to its own essence, the essence in which he has a feeling of his selfhood, and in which he lives as in his own element which is not distinguished from himself. The subject is thus directly linked to the ethical order by a relation which is more like an identity than even the relation of faith or trust. (Hegel 1991: §147)

From the perspective of mediated unity, the individual is not conceived of simply as an anonymous cog in the workings of a complex social machine, nor are individual and state independently constituted, nor are the interests of the individual seen as *antagonistic* to those of the state. Rather, the individual is conceived of as a *bona fide* self-determining and rationally self-reflexive agent who requires assistance from social institutions in an effort to realize their own autonomy. The state is required, as it is the *principal* institution of *Sittlichkeit*.¹¹ As Alan Patten argues:

A community containing the family, civil society, and the state is the minimum self-sufficient institutional structure in which agents can develop, maintain, and exercise the capacities and attitudes involved with subjective freedom. . . . The capacities for reflection, analysis, and self-discipline, the sense of oneself as a free and independent agent – can be reliably developed and sustained only in the context of certain social institutions and practices. In particular, in Hegel's view, institutions such as property and contract, that work to mediate the attraction and expression of mutual recognition, must be in place for these capacities to be fully developed and sustained. (Patten 1999: 37)¹²

For Hegel, then, social institutions are good because they are necessary to realizing freedom.¹³ Having articulated Hegel's robust intersubjectivism, I now wish to turn to Dewey's particular articulation of intersubjective agency.

The way in which Dewey conceives of intersubjective agency is bound up with his critique of classical liberalism. Under classical liberalism:

- 1) Individuals have normative and ontological priority over institutions;
- 2) Individuals have pre-political or natural rights;
- 3) Individuals have their subjectivities and interests fully formed before engaging in any kind of deliberative discourse;

- 4) Freedom consists in freedom from interference by others, including by the state.

Dewey rejects classical liberalism on the grounds that individuals are not ontologically prior to society and that social institutions are not merely means for fulfilling the pre-social interests of individuals. In the same way that the early modern tradition conceived of the relation between mind and world as one of fundamental separation, Dewey claims that classical liberalism is a *practical* exemplification of “the most pervasive fallacy of philosophical thinking” (Dewey 1930: 5), namely dividing up and separating phenomena into strict dichotomies. As Alison Kadlec writes, “[C]ontemporary society has inherited from classical philosophy a set of dualisms that must be exposed and dismantled if we are to make real progress toward improving the human condition in an age of industrialisation and world war” (Kadlec 2006: 530). *Contra* the picture of the isolated, egoistic, asocial individual, Dewey advocates a nuanced social holism that aims to avoid the ontological mistake of conceiving of individuals as radically distinct from social institutions.¹⁴

[L]iberalism knows that an individual is nothing fixed, given ready-made. It is something achieved, and achieved not in isolation but with the aid and support of conditions, cultural and physical: – including in “cultural”, economic, legal and political institutions as well as science and art.

(Dewey 1935: 291)

As with the dissolution of the mind/world dualism, the individual and society are no longer conceived in “the celebrated modern antithesis of the Individual and Social” (Dewey 1927: 87). According to Dewey’s political holism, freedom should be understood in terms of a positive capacity to realize oneself. Crucially, such individual self-realization can only be achieved by conceiving of individuality as necessarily *embedded* in a reflective and social environment. These ecological conditions, moreover, must be democratically arranged and constituted if they are to perform their normative function. As Dewey writes in *Reconstruction in Philosophy*:

Government, business, art, religion, all social institutions have a meaning, a purpose. That purpose is to set free and to develop the capacities of human individuals without respect to race, sex, class or economic status. And this is all one with saying that the test of their value is the extent to which they educate every individual into the full stature of his possibility. Democracy has many meanings, but if it has a moral meaning, it is found in resolving that the supreme test of all political institutions and industrial arrangements shall be the

contribution they make to the all-around growth of every member of society.

(Dewey 1920: 186)

I therefore contend that, like Hegel, for Dewey,

having identity-constituting attachments to one's community is made compatible with conceiving of oneself as an *individual* – that is, as a *person* with rights and interests separate from those of the community, and as a *moral subject* who is both able and entitled to pass judgment on the goodness of social practices.

(Neuhouser 2008: 209)

As such, central to this social model is a clear commitment to individuals whose subjectivities are not lost or denigrated in mediated unity.¹⁵ To quote Dewey here:

The individual interest no longer has to be sacrificed to the general law as an accidental or even unworthy element. The particular self-interest is identified with the law, and the law is no longer an abstraction which ought to be, but lives in individuals as the very essence and substance of their own life and interests. . . . The will finds complete expression only when it gets realized in actual institutions and when these institutions are so bound up with the very life purposes of the individual that they supply him his concrete motives. . . . These institutions, since they are actual existences, furnish the definite and specific conditions under which action must take place. . . . [S]ince the individual is a member of these institutions, and can live his own life only in and through these institutions, they are one with himself, they are his true good. It is in performing his own function, taking his own position with reference to these institutions that he truly becomes himself and gets the full activity of which he is capable. It is this union, then, of the subjective and objective sides, of the particular will and the universal, of self-interest and law, which constitutes the essential character of the ethical world.

(Dewey 1897: 155–156)

From what I have been arguing, there seems to be a tension between the model of the state which Hegel *himself* preferred, namely, constitutional monarchy, and the *ironically broader left-wing entailments of his own conceptual resources*.¹⁶ As I have articulated it, the Hegelian model of *Sittlichkeit* sees the state as playing the principal role of realizing freedom by serving as the primary ethical sphere. Hegel makes it clear that individual autonomy cannot be achieved unless there is a supportive background environment structured in accordance with norms of symmetrical

recognition, comprising relevant social institutions and values, which provide individuals with material and epistemic resources to realize their own normative aims. Reflexive freedom or positive liberty – to use Isaiah Berlin’s expression – *must* presuppose *but* does not adequately articulate the necessary progressive socio-ecological conditions. Specifically, an individual’s goals cannot become a means of self-realization if these goals are not embedded in an accommodating context,¹⁷ since this context provides the social space as well as the resources necessary for realizing autonomy. To this extent, then, social institutions and practices are not external to individuals’ autonomy – they are *constitutive* of autonomy itself. Crucially, though, acknowledging our intersubjective vulnerability and our interdependency, *contra* neoliberal ideology, should neither be construed as a psychological failing nor entail a model of the human being as inherently impotent or weak. As Dewey writes:

From a social standpoint, dependence denotes a power rather than a weakness; it involves interdependence. There is always a danger that increased personal independence will decrease the social capacity of an individual. In making him more self-reliant, it may make him more self-sufficient; it may lead to aloofness and indifference. It often makes an individual so insensitive in his relations to others as to develop an illusion of being really able to stand and act alone – an unnamed form of insanity which is responsible for a large part of the remediable suffering of the world.

(Dewey 1916: 48–49)

On such a view, it is not immediately clear why exactly a constitutional monarchy would *best* fulfill the normative function of realizing autonomy, especially because such systems of power and authority are necessarily hierarchical, involving practices of ideological recognition underpinning broader patterns of domination and exploitation.

However, I would argue that there is enough in *left-Hegelian social philosophical resources* to reasonably claim that the state which actualizes autonomy is not *any* kind of constitutional monarchy, and certainly *not* the neoliberal capitalist socioeconomic system, since neither system embodies the level of rationality required for the *rational state*. For the framework of neoliberal capitalism hinders the growth of individual freedom and places barriers on the development of autonomy, since the kind of practices the neoliberal capitalist framework encourages are not *rational* practices. In order to effect the realization of substantive rationality in “Objective Spirit,” one would need to sublimate the current socioeconomic paradigm. Such sublation involves the project of reconciliation, so much so that the *logic* of reconciliation is designed to prohibit any form of repression of subjectivities.¹⁸ For example, under left-Hegelian democracy, one conceives of individuals as intersubjectively vulnerable

determining agents, as opposed to reified and fixed capitalist instruments. In this sense, there is a clear development in recognitive practices, since individuals “count as more than just equal bearers of labour power performing one simple function in the system” (Baumann 2011: 82). As Neuhouser writes,

Implicit in Hegel’s view of ethical life’s Conceptual structure is the claim that part of what makes the modern social world rational is that it allows its members to develop and express different, complementary identities. The idea here is that each type of identity has a distinct value for individuals and that possessing them all is essential to realizing the full range of possible modes of selfhood. To miss out on any of these forms of social membership, then, is to be deprived of one of the basic ways of being a self and hence to suffer an impoverishment of one’s life.

(Neuhouser 2008: 223)

As such, for a practical relation-to-self to be healthy and in order to be properly autonomous, progressive intersubjective relations must be in place and operating without coercion. Social processes and institutions are, therefore, assessed in terms of how well (if at all) they foster communicability and the development of subjectivities which help individuals achieve self-realization,¹⁹ since, to quote Habermas, “A postconventional ego-identity can only stabilise itself in the anticipation of symmetrical relations of unforced reciprocal recognition” (Habermas 1992: 188). To put this another way, *Sittlichkeit* can be legitimately construed as a politicization of G.H. Mead’s sociality thesis:²⁰ *human beings are so immersed in social life that there is no development of full freedom outside the social sphere.*²¹ As Honneth writes in a way which is supportive of the central Hegelian insights:

For modern subjects, it is obvious that our individual freedom depends upon the responsiveness of the spheres of action in which we are involved to our own aims and intentions. The more that we feel that our purposes are supported and even upheld by these spheres, the more we will be able to perceive our surroundings as a space for the development of our own personality.

(Honneth 2014: 60)

The conceptual resources that comprise Hegel’s theory of social freedom enable one to view Hegel as having far greater affinity with republican democratic forms of association than with a system of constitutional monarchy. Even though Hegel *himself* was no democrat, in the *Philosophy of Right*, §311, he insists that political representation “is not merely a matter of tallying the votes of abstract individuals or tracking the will of an

indeterminate ‘public.’ Rather, it is a matter of getting the legitimate and determinate concerns of actual groups of people concretely integrated into the deliberative process” (Farneth 2017: 120). In this way, the general vocabulary of *Sittlichkeit* with its commitment to mutual recognition as communicative action guided by communicative rational practices, rather than by formal mechanisms operating under instrumental-formal rationality, finds kinship with Deweyan democracy:²²

A democracy is more than a form of government; it is primarily a mode of associated living, of conjoint communicated experience. The extension in space of the number of individuals who participate in an interest so that each has to refer his own action to that of others, and to consider the action of others to give point and direction to his own, is equivalent to the breaking down of those barriers of class, race, and national territory which kept men from perceiving the full import of their activity.

(Dewey 1916: 93)

Dewey makes it clear that democracy should not be understood as a *purely political concept*. What democracy involves is more basic than either a type of constitution empowering voters or a type of government, one typified by majority rule.²³ Democracy, rather, is a set of values comprising a particular form of associating with others. Democracy is, in short, *a way of living*. As Kadlec correctly notes, “[D]emocracy, then, cannot be reduced to a set of institutional functions or abstract visions of the state” (Kadlec 2006: 537). Crucially, a democratic way of life is the life of inquiry, where inquiry, à la Peirce, is open, non-dogmatic, inclusive, fallibilist, ceaseless, critical problem-solving experimentation. To this extent, the democratic life and the inquiring life are *mutually supportive*, insofar as democratic environments promote and sustain inquiry, and inquiry promotes and sustains democracy.

Understood in such a way, there are two important positive connections between Hegel and Dewey here: first, as I argued earlier, for Hegel, social processes and modern institutions are *structured* for the purposes of fostering the development of unique subjectivities that help individuals achieve self-realization. For Dewey, social processes and institutions are structured for the purpose of fostering *growth* and nurture “the critical, inquiring spirit” (Dewey 1920: 16). As James Good writes, “Once more, for Dewey, the actualization of ideals is the key to Hegel’s thought. The actualisation of freedom is possible only in a society whose institutions are rational and in which the individual can feel at home” (Good 2010: 86). Both philosophers, therefore, are committed to the view that democratic social institutions must be structured in a way that realizes autonomy. As Christopher Zurn elegantly phrases it, “[F]ree actions require an accommodating social environment from which those actions

derive their sense and purpose, and within which those actions fit into a cooperative scheme of social activity” (Zurn 2015: 161). Conceived in such a manner, Hegel and Dewey anticipate what Honneth, following Talcott Parsons, calls a “relational institution”:

[Relational institutional] systems of action must be termed “relational” because the activities of individual members within them complement each other; they can be regarded as “ethical” because they invoke a form of obligation that does not have the contrariness of a mere “ought,” without, however, lacking moral considerateness. The behavioural expectations that subjects have of each other within such “relational” institutions are institutionalised in the shape of social roles that normally ensure the smooth interlocking of their respective activities. When subjects fulfil their respective roles, they complement each other’s incomplete actions in such a way that they can only act in a collective or unified fashion. The reciprocally expectable behaviour bundled in these social roles therefore has the character of a subtle duty, because the subjects involved regard it as a condition for the successful realization of their common practices.

(Honneth 2014: 125)

Relational institutions, for Honneth, are required for social freedom: an agent realizes their own individual purposes in and through social institutions in which they engage in mutual recognitive practices. The roles and expectations of relational institutions gain their power and validity from the kind of recognitive relations they promote and enable. As such, for a social institution to be a *relational* one, it must be wholly constituted by practices of communicative action, and it must promote and enable intersubjective recognition. For example, consider the case of a lesbian Latina, Esmeralda, whose participation in relational institutional environments enables her to identify that her self-realization is best achieved through becoming an academic: in order to achieve a healthy practical relation-to-self through this career choice, Esmeralda’s activities must take place in (a) institutional environments whose norms of gender, race, and sexuality are free from coercive ideology, in (b) institutional environments with educational opportunities, in (c) institutional environments with high levels of epistemic capital, such as significant expertise and discursive sophistication, and in (d) institutional environments which offer direct access to labor markets. For Honneth, the environment fostering and constituting relational institutions is distinctive, since

[a]s beings who are dependent on interacting with our own kind, the experience of such a free interplay with our intersubjective

environment represents the pattern of all individual freedom: The schema of free activity, prior to any tendencies to retreat into individuality, consists in the fact that others do not oppose our intentions, but enable and promote them.

(Honneth 2014: 60)

The sphere of *personal relations* (friendship, sexual intimacy, and family) is relational insofar as it allows individuals to develop and pursue their needs, hopes, and dreams through their intersubjective confirmation by friends, lovers, and family members. The *market sphere* is relational insofar as it enables the realization of individuals' own aims by institutionalizing cooperation in the activity of meeting needs (consumption) and by institutionalizing cooperation in the activity of recognizing achievement (labor markets). The *modern Rechtsstaat* is relational insofar as it is structured to constitute a form of social freedom through its promotion and embodiment of democratic values, such as inclusion, equality, individuation, cooperation, consensus, and deliberation. To quote Zurn, "Those institutional spheres must then embody practices of reciprocity and institutions of mutual recognition. And they must provide the social context necessary for individuals to realize the diversity of their individual ends 'in the experience of commonality'" (Zurn 2015: 164).

If we interpret Hegelian *Sittlichkeit* and Deweyan democracy within the framework of relational institutions, then one can establish the second – and arguably more significant – socio-philosophical connection between Hegel and Dewey. For Hegel, social processes and modern institutions are *assessed* in terms of how well (if at all) they enable the development of unique subjectivities that help individuals achieve self-realization. For Dewey, social processes and institutions are *assessed* in terms of how well (if at all) they enable growth.

In what follows, I focus on an important passage by Dewey about individual and social growth in *Reconstruction in Philosophy*. I shall argue that by construing Deweyan democracy's concern for growth in relation to the neo-Hegelian idea of a relational institution, *one has compelling reason to regard Hegel and Dewey as supportive of the critical theory tradition*. The normative dimensions of Hegelian *Sittlichkeit* and Deweyan democracy are, crucially, *critical*, in that they play an important role in revealing how *current social institutions fail to be relational institutions, since they fail to promote practices of symmetrical recognition necessary for growth*. However, before all this, I would like to flag two basic problems.

3. Two Critical Challenges for Neo-Hegelianism and Deweyan Pragmatism

The question of whether Hegel and Dewey would be supportive of critical theoretic traditions is being addressed in the growing literature on

Hegel and Dewey in relation to critical social theory.²⁴ However, I think the more pertinent question is whether in further developing the Western Marxist tradition of critical social theory one *should* draw upon the conceptual resources of Hegel and Dewey as prisms through which the deficiencies of current social reality can be accurately described and transformative visions of emancipation can be articulated.²⁵ If one thinks one should do so, then one must come face-to-face with two potential barriers to such a project. The first problem is how to *plausibly* construe Hegel and Dewey as “philosophers of critique” when Adorno staunchly opposed Hegel’s holism and conception of the individual,²⁶ and Horkheimer and Gramsci (as well as Marcuse) viewed pragmatism either – at best – as positivism, the philosophy of corporatism, and “a crude apology for the *status quo*” (Kadlec 2006: 525) or – at worst – as in direct league with fascist ideology. The second problem is a challenging argument made by Robert Frega concerning Dewey’s interests as a (Hegelian) social philosopher.

Turning to the first problem, for Adorno, what is symptomatic of Western philosophy is the apparent long-standing tradition of prioritizing universality over individuality, a tradition which begins with Plato and is fully actualized in Hegelian thought: prioritizing universality over individuality is evidenced in claiming that while individual objects do have distinctive features, their qualitative distinctness is metaphysically grounded in underlying sameness: Bill and Ted are individual entities and they have different properties, but they only have those specific properties by virtue of being particular instantiations of the same substance-kind. In this sense, universality is metaphysically prior to individuality, as there can be no individuality without universality.²⁷

However, such metaphysical prioritization is regarded by Adorno as harmful: the practice of conceptualization in terms of bringing things under general descriptions and rule-following is an *intrinsically violent and authoritarian practice*.²⁸ Since *Begriffe* function to *seize* the things they are directed at,²⁹ the activity of making sense of things through the application of rule-conforming concepts does not respect the integrity of Being; rather, it is a kind of *viol cognitif*, where reality is forced to conform to concepts. Such violence seems to translate into a loathing of *individuality*.³⁰ As Adorno writes:

[U]nity gets worse as its seizure of plurality becomes more thorough. It has its praise bestowed on it by the victor, and even a spiritual victor will not do without his triumphal parade, without the ostentatious pretence that what is incessantly inflicted upon the many is the meaning of the world. . . . Thus established, the logical primacy of the universal provides a fundament for the social and political primacy that Hegel is opting for.

(Adorno 1981: 328)

While the task of rebuking Hegel fell to Adorno, the task of bringing pragmatist theory before the tribunal of critique fell to Horkheimer: *The Eclipse of Reason* contains a plethora of excoriations of pragmatism (see Horkheimer 2004: 29–42). For the most part, Horkheimer identifies pragmatism, represented by Peirce and Dewey's respective commitments to experimentalism and valorization of scientific inquiry, with a corrosive, scientific variety of philosophical naturalism.³¹ In this respect, Horkheimer's argument is that pragmatism instantiates the social pathology of industrial homogenization operating through totalizing patterns of nomothetic rationality. Such practices of instrumental reason not only disenchant nature³² but also – in proto-Foucauldian ways – serve as tools of disciplinarity and the coercive regulation of society.³³ However, by the time pragmatists have finished reeling from Horkheimer's vitriolic characterization of them, additional discursive rage against Peirce and Dewey is leveled by Gramsci:

Hegel can be considered the theoretical precursor of the democratic revolutions of the nineteenth century, [while] the pragmatists, at the most, have contributed to the creation of the Rotary Club movement and to the justification of conservative and reactionary movements.
(Gramsci 1971: 373)

For Gramsci, pragmatism's staunch commitment to *common sense* props up an oppressive *status quo* by espousing utilitarian attitudes that are emblematic of institutional environments built on and sustained by exploitation and instrumentalization. Specifically, the alleged valorization of "traditional" theory by Dewey and Peirce means that pragmatism is "unable to identify hegemonic structures at work in the generation of common sense" (Kadlec 2006: 526) and thereby fails to identify the urgent need to *transform current social reality and articulate a vision of human emancipation*. This is the crucial point I wish to discuss, because there is compelling reason to suppose that the following passage in *Reconstruction in Philosophy* illustrates *critical* dimensions to Dewey's Hegelian social theory:

[T]he process of growth, of improvement and progress, rather than the static outcome and result, becomes the significant thing. Not health as an end fixed once and for all, but the needed improvement in health – a continual process – is the end and good. The end is no longer a terminus or limit to be reached. *It is the active process of transforming the existent situation*. Not perfection as a final goal, but the ever-enduring process of perfecting, maturing, refining is the aim in living. Honesty, industry, temperance, justice, like health, wealth and learning, are not goods to be possessed as they would be if they expressed fixed ends to be attained. They are directions of change in the quality of experience. Growth itself is the only moral "end."

(Dewey 1920: 177, emphasis added)

What Dewey writes about “the active process of transforming the existent situation” would hardly be out of place in *any* critical social theory – whether feminist, critical race theory, queer theory, Horkheimer and Adorno’s neo-Marxism,³⁴ Gramsci’s philosophy of *praxis*, Habermas’s colonization thesis, or Honneth’s worries about systemic patterns of individual and social misrecognition and nonrecognition. As Arvi Särkelä and Justo Zamora correctly point out when discussing Dewey’s relation to the *basic* idea of critical social theory:

Critical social theories are generally understood to be distinct from other normative theories by their explicit orientation toward emancipation: they not only present normative criteria for assessing the legitimacy or justification of social institutions or merely inquire into the actualized freedom of a given form of social life but claim to point toward a “freedom in view” – an end that might aid those participating in social struggles to overcome the pathological, alienated, or ideological social order of the present. John Dewey’s social theory clearly cherishes this ideal of social criticism. It contributes to a critical social inquiry in a variety of ways, some of which, so we believe, are still to be discovered.

(Särkelä and Zamora 2017: 213)

By construing Deweyan democracy’s concern for growth in relation to the neo-Hegelian idea of a relational institution, I contend *one has compelling reason to regard Hegel and Dewey as providing resources for the critical theory tradition*. The normative dimensions of Hegelian *Sittlichkeit* and Deweyan democracy shed important diagnostic light on a plurality of contemporary social pathologies and misdevelopments brought about by capitalism: this is because the normative dimensions of Hegelian *Sittlichkeit* and Deweyan democracy are, crucially, of *critical* use, in that they can play an important role in revealing how *current social institutions fail to be relational institutions, since they fail to promote practices of symmetrical recognition necessary for growth*. I accept that Hegel (especially) and Dewey are not *as* radically critical of modernity as Horkheimer and Adorno, but, importantly, this does not *eo ipso* disqualify their *conceptual resources* from either involving commitments to progressive social transformation or being legitimately deployed in such a way to articulate emancipatory narratives. For, Hegel, as Lukács correctly notes, “does not close his eyes to the destructive effects of the capitalist division of labour and of the introduction of machinery into human labour” (Lukács 1975: 329). The same goes for Dewey. Furthermore, I think both would also endorse the following critique of neoliberalism by Honneth:

There can be no doubt that the current economic system in the developed countries of the West in no way represents a “relational”

institution and is thus not a sphere of social freedom. It lacks all the necessary characteristics of such a sphere: It is not anchored in role obligations to which all could agree, and which interweave with each other in a way that allows subjects to view each other's freedom as the condition of their own freedom; it therefore lacks an antecedent relation of mutual recognition from which the corresponding role obligations could draw any validity or persuasive power.

(Honneth 2014: 176)

Focusing on Hegel, *Geist* necessarily involves an intersubjective play of intentionality, where mutual recognition between individual agents results in the formation of a community.³⁵ Crucially, though, such a community is not one which deprives the individual of an autonomous life, because *recognitive* relationships – for all of their emphasis on the *unity* of a given community – necessarily involve a commitment to *difference*. His position on love seems to be arguably the *best* example of genuine intersubjectivity: love, conceived of as a *unity* between two individuals, can only exist through *difference*, since love requires “the most genuinely other” (Westphal 1993: 35). So, rather than viewing Hegelianism as advocating a monochromatic and totalitarianism monism, one ought to regard Hegelian conceptual resources as sublating this distinction between monism and pluralism. As Charlotte Baumann rightly claims, “It is precisely Hegel’s intention to develop a conception of a whole which constitutes different entities and allows for their free existence within it, rather than destroying them” (Baumann 2011: 90). *Sittlichkeit*’s intimate relationship with relational institutions reveals concern about currently deficient social reality, namely, that antidemocratic trends gradually undermine the realization of what Horkheimer calls an “*expressive totality*.”³⁶ Unlike false totalities, expressive totalities involve a conception of a social whole in which heterogeneous needs and interests of members of society are expressed and also fully developed and realized at no cost to social stability. The consequence of a situation in which there is no expressive whole, but only a crystallization into well-ordered homogeneous complexes under the steering mechanism of instrumental practices and unfettered market forces, is that the plight of individuality is almost hopeless. This is because the subjective and objective conditions for exercising freedom and achieving solidarity risk being eroded by increasing patterns of reification and social homogenization. In Hegelian terms, these intersecting social pathologies and misdevelopments are barriers to intersubjective recognition and the development of healthy subjectivities; in Deweyan terms, these intersecting social pathologies and misdevelopments stunt *growth* and stultify self-development.

Turning now to the second problem I announced at the start of this part of the chapter, Frega articulates the following argument concerning Dewey's interests as a social philosopher:

As a social philosopher, Dewey was more interested in *criticism* as a constructive and creative activity exercised in ordinary circumstances by social actors and aimed at opening up new possibilities from within social experience (LW 5.125–43) than in *critique* as an academic enterprise aimed at unmasking and unveiling structural pathologies in the style of the grand social theorizing that has spanned the critical tradition from Marx to today, with its panoply of concepts such as alienation, reification, social pathology, iron cage, malaise of civilization, rationalization, ideology, and so on. . . . In that sense, his interest was not in criticizing reason, technology, corporate life, capitalism, or industry “at large” but in trying to understand how the extraordinary potential they were unleashing could be put to use in the interest of the greatest number of human beings. Hence to the negative vocabulary of the critical tradition, Dewey preferred the positive vocabulary of *reconstruction, transformation, direction, control, reform, education, experimentation, learning, intelligence, and democracy*. These terms, taken together, compose the positive and constructive side that is essential to any pragmatist social philosophy. (Frega 2017: 269–270)

For Frega, there is a strict distinction between “criticism” and “critique,” insofar as practices of criticism are inherently positive, whereas practices of critique are inherently negative. This, in turn, means that even though he is “persuaded that inscribing pragmatism within the broad camp of critical theory is a much more promising move than conceiving of it as a mere variant of Anglo-American liberalism” (Frega 2017: 261–262), there is nonetheless *significant* dissonance between Dewey's (Hegelian) social philosophy and critical social theory. I think Frega's central premise is highly dubitable and that consequently Frega's argument fails here: there is little compelling reason to suppose that practices of *critique* are inherently negative. The vocabulary of *reconstruction, transformation, direction, control, reform, education, experimentation, learning, intelligence, and democracy*, which Frega attributes to Dewey's Hegelian social theory, does not merely also find a home in critical social theories *tout court, but is part of their emancipatory grammar*.

Crucially, though, what I have claimed here is *not* incompatible with the general idea that there *are* substantive differences between critical social theories, particularly first-generation critical theorists like Horkheimer and Adorno, and Hegelian-Deweyan social theory. For, when one puts Horkheimer and Adorno in conversation with Hegelian-Deweyan theory, the substantive area of constructive disagreement is *whether the social*

pathologies and misdevelopments endemic in modern capitalist society are essentially rooted in the structure of modern institutions: does modernity become subjugating or has modernity always been subjugating? If modernity becomes subjugating, then social pathologies and misdevelopments are contingent features of non-progressive sociopolitical-economic arrangements, which are temporary distortions of institutions structured around realizing freedom. This means social pathologies and misdevelopments can be agonistically overcome within those very institutions, because there is – to use Honneth’s famous term – an untouched “normative surplus” in modernity: “[T]he non-coercive power to assert a normative surplus exercises a permanent pressure that will sooner or later destroy any remains of traditional practices” (Honneth 2014: 164). To quote Zurn here:

This occurs by overcoming limited interpretations of extant recognition principles and tapping the “surplus validity” of those principles that has not yet been realized in social reality. Experiences of violated recognition are then the detectors of surplus validity. When such experiences coalesce into social movements, the possibility exists for struggles for expanded social relations that transcend society’s current limited forms.

(Zurn 2015: 151)

However, if modernity has always been subjugating, then modernity itself is *inherently* pathological, and its pathological qualities are due to its *genetic makeup rather than the background social forces at play distorting institutions for freedom*. As is well-known, Horkheimer and Adorno deemed modernity to be inherently pathological. However, for Habermas and Honneth – in differing ways – the social pathologies and misdevelopments in advanced Western social democracies responsible for crisis situations are not embedded in modernity itself. The pathologies, misdevelopments, and relevant crises are due to either colonizing encroachment of the communicative territory of the lifeworld by the steering power of instrumental practices, or by moral grammars which do not promote and sustain environments for intersubjective recognition. For Honneth in particular, since I have focused on his idea of a relational institution, the diagnosis is as follows: *social pathologies and misdevelopments of capitalism are largely produced in and sustained by non-relational institutional environments, environments which produce and sustain intersectional injustices*.

On Honneth’s account, the socialist aspect of his variety of critical social theory is predicated on the idea that “the realization of the promised harmony between freedom, equality and solidarity is not possible under the prevailing social conditions” (Honneth 2017: 107). In this respect, Hegel and Dewey are given pride of place as providing resources for making sense of the significance of intersubjectivity as a way of progressing society out of a state of pathology. On the Hegelian side of

things, carefully unpacking how the concept of intersubjective recognition needs *refinement*, so that clandestine power relations which constitute distortive recognitive practices can be exposed and combated, is something which is necessary for future critical social theory to maintain its critical and emancipatory function. This is not to say Honneth's *own* account of recognition is irredeemably naïve and unfit for socialist tasks but rather that Honneth's *own* account of recognition is not *as* sensitive to the presence and workings of power relations which operate surreptitiously, often laying the background conditions of "allegedly" mutual recognitive practices. As such, in the age of neoliberalism, Trump, Brexit, post-truth, populism, the demonization of expertise, neo-fascism, neo-nationalism, unitary concepts of identity, silencing, hermeneutic marginalization, and ever-increasing economic inequalities, Hegel's value – at a general level – would consist in helping work out the complex etiology and epidemiology of regressive social and economic practices. For example, the etiology on the Hegelian story would involve seeing patterns of misrecognition and nonrecognition as symptoms of a pathological and regressive conception of freedom and subjectivity; furthermore, on the epidemiological side of things, the Hegelian approach would involve seeing how pathological and regressive conceptions of freedom and subjectivity have permeated various levels in modernity – ranging from the economic arrangements of current society to the vocabularies governing racial and gender norms, to name a few.

However, in response to what I have just written, Fabian Freyenhagen – a critic of Honneth and skeptical that Deweyan articulations of Hegelian *Sittlichkeit* have critical implications/applications³⁷ – can reasonably counter by claiming that what is required is *radical* critique rather than normative reconstruction:

It is thus unsurprising to see that Honneth in *Freedom's Right* does not think of social pathologies and other social aberrations as indicting our social world in such a way that revolutions are required to address them. Rather, they are now understood on the model of an immanent critique with a reformist orientation: as deviations from norms that are already embedded in the social fabric and that could be realized without fundamental changes to it.

(Freyenhagen 2015: 143)

In many respects, Freyenhagen's Adornian claim that social pathologies and other social aberrations indicting our social world require *revolution* to address them seems difficult to resist. For a reformist disposition at best seems to offer only the occasional humanizing tweaks to a system of endemic oppression in such a way that just softens the blow from neoliberalism rather than breaking neoliberalism's cycle of ideological production and reproduction. Reformism, simply put, is not equipped with

the critical vocabulary for critiquing current social reality. For example, a particularly helpful way of connecting populist upheavals in Western Europe and the US and the breakdown of trust in experts is by regarding both populist and fascistic discourse as construing experts as *inauthentic* members of given societies. In this respect, I think there are two especially worrying aspects about populism (on the Left and Right) and the demonization of expertise in many democratic societies. Firstly, there is distressing misrecognition of and testimonial injustice against rational agents. Secondly, neo-nationalist and right-wing populist conceptual frameworks have become bedfellows with steering mechanisms of instrumental systems and have perverted public spheres by bringing in cognitive pathogens into the space of reasons. In doing so, the transformative potential of relational institutions has been stultified, to the extent that one may quite rightly question if existing modern social institutions were *ever* in fact *relational* institutions. Reformism, therefore, seems hardly the right kind of socio-intellectual orientation for *these* times. To make my points more explicit, I want to focus on the practices typically used to undermine the voices of social critics, where such practices are now part and parcel of reactionary dispositions towards antiracist protests.³⁸

4. Antiracist Protests and the Neo-Hegelian Critical Theory Response: Revolution or Reform?

In 1992, an uprising occurred in Los Angeles after police officers were exonerated despite their having beaten Rodney King nearly to death. For Robert Gooding-Williams, one of the two principal ways in which the media covered the L.A. riots was the “conservative view,” according to which, “[T]he people on the streets were taken to embody an uncivilized chaos that needed to be stamped out in order to restore law and order. On this account, the “rioting” had nothing to do with the King verdict but expressed a repressed opportunism just waiting for an excuse to flout the law” (Gooding-Williams 2006: 14). Under the conservative view, the claim that the L.A. riots represented *distress* and *legitimate* anger at institutional racism and police brutality is summarily *dismissed*, to the extent that the grammar and vocabulary of *protest against injustice* are viciously misrecognized to the point of *silence* and *erasure*. As Gooding-Williams writes, the conservative and reactionary view is “a failure to regard the speech or actions of black people as manifesting thoughtful judgments about issues that concern all members of the political community” (Gooding-Williams 2006: 14). To further illustrate racial testimonial injustice, it would be helpful to reflect on an example used by Jane McConkey (2004), a true story told by Patricia Williams:

I was shopping in Soho [in Benetton’s] and saw a sweater that I wanted to buy for my mother. I pressed my round brown face to the

window and my finger to the buzzer, seeking admittance. A narrow-eyed, white teenager wearing running shoes and feasting on bubble gum glared out, evaluating me for signs that would pit me against the limits of his social understanding. After about five seconds, he mouthed “We’re closed,” and blew pink rubber at me. It was two Saturdays before Christmas, at one o’clock in the afternoon; there were several white people in the store who appeared to be shopping for things for *their* mothers. I was enraged. At that moment I literally wanted to break all the windows of the store and *take* lots of sweaters for my mother. In the flicker of his judgmental grey eyes, that sales-child had transformed my brightly sentimental, joy-to-the-world, pre-Christmas spree to a shambles. . . . I am still struck by the structure of power that drove me into such a blizzard of rage. . . . No words, no gestures, no prejudices of my own would make a bit of difference to him; his refusal to let me into the store . . . was an outward manifestation of his never having let someone like me into the realm of his reality.

(Williams 1991: 44–45)

A rumour got started that the Benetton’s story wasn’t true, that I had made it up, that it was a fantasy, a lie that was probably the product of a diseased mind trying to make all white people feel guilty. At this point I realized it almost didn’t make any difference whether I was telling the truth or not – that the greater issue I had to face was the overwhelming weight of a disbelief that goes beyond mere disinclination to believe and becomes active suppression of anything I might have to say.

(Williams 1991: 242)

In addition to having her personal integrity harmed by the shop clerk’s racial prejudices, Williams suffered further injustice by having her claims dismissed and not afforded serious *credibility*:³⁹ rather than be accorded the default level of epistemic respect and doxastic appreciation provided by Tyler Burge’s Acceptance Principle (Burge 1993: 467), Williams is not only treated with epistemic scorn but she is also stripped of any normative authority and is deemed as someone who violates norms of assertion (Grice 1975: 26–30). To use a Sellarsian *tournure de phrase*, testimonial injustice deprives Williams, a rational agent, of her rightful place as someone moving in the space of reasons⁴⁰ and thereby leaves individuals like her who are prejudiced against in a state of self-alienation: because Williams is *not* recognized⁴¹ – *as opposed to recognized but treated with less credibility than other epistemic participants* – she is forcibly alienated from her own rationality, where her rationality enables her to be a member of a community of inquirers.⁴² Crucially, the asymmetrical nature of the

cognitive environment causes Williams to feel that the space of reasons, the locus of normative discourse where epistemic practices derive their sense of meaning and purpose, is not welcoming to her.

In 2014, after Michael Brown was killed by police officers in Ferguson, uprisings and protests against racial injustice and police brutality in the US coalesced into the #BlackLivesMatter movement. As part of the effort to explicitly challenge the reactionary socio-epistemic paradigms which construe antiracist protestors as public *threats*, Black Lives Matter demonstrations typically involve the chants “Hands Up, Don’t Shoot!,” where marchers raise their hands above their heads while chanting. To quote José Medina here, “This slogan performatively challenges the misplaced presumption that demonstrators pose a threat to public order, interrogating the underlying narratives that depict them as such a threat, while invoking alternative images of peaceful expressions of group agency” (Medina 2018: 12). Furthermore, the chants “Whose streets? Our streets!” and “No Justice, No Peace” are *deliberately* misinterpreted and misrecognized by reactionary groups to imply that the basic progressive claim “Black Lives Matter” is equivalent to “Black Lives Matter More than White Lives.” Crucially, this forms a significant part of the explanation for why #AllLivesMatter is in fact *reactionary*, since #AllLivesMatter reveals itself as either willfully or non-willfully ignorant of structural racism and systemic misrecognition.

I previously claimed that Honneth’s own account of recognition should *not* be construed as irredeemably naïve and unfit for emancipatory tasks but rather that Honneth’s own account of recognition is not *as* sensitive to the presence and workings of power relations which operate surreptitiously, often laying the background conditions of ideological practices. One way of reconciling Freyenhagen’s Adornian conception of critique with the Deweyan-Hegelian model of social critique can be articulated as follows: what Honneth’s neo-Hegelian socialist position *currently* lacks and what *my* neo-Hegelian socialist position involves is *critical engagement with the concept of intersubjective recognition at the macro-epistemic level as well at the macrosocioeconomic level*. By this I mean that the Deweyan-Hegelian model helps further critical social theory into *new* transformative and radical iterations by asking critical social theorists to see how cognitive injustices at the *epistemic* level – the backlash to #BlackLivesMatter and #MeToo being exemplary cases here – are intersectional with socio-economic abuses, so much so that epistemically repressive environments and socioeconomically alienating environments are mutually sustaining. From this perspective, then, it is no coincidence that epistemically and hermeneutically unjust environments are involved in the decomposition of contemporary public spheres.

In many respects, my neo-Hegelian socialist position questions the *whole horizon of modernity* that Honneth takes for granted. However, what separates my approach from that of Freyenhagen’s Adornian preference

for *total* revolution is that I think there is compelling reason to suppose that questioning the whole horizon of modernity does not *necessarily* lead to one construing that horizon as *essentially* incapable of social transformation and that total revolution is the *only* viable option for the critic. For the very development of forms of resistance to reactionary dispositions is part and parcel of *critical modernist* practices, wherein modernity is subjected to immanent critique to emerge out of a pathological state. To put this another way, the advantage of subjecting modernity to immanent critique is that I think there are enough resources in the project of modernity to correct itself, since pathologies and misdevelopments in modern social spheres are *contingent*, and they *can* be overcome eventually through immanent critique. Intersectional injustices can be resisted and overcome not *only* by total revolution but also through the development of a *radical form of deliberative democracy* in which *power* is rooted in the *communicative* power of the lifeworld, especially a well-functioning public sphere. Traversing “the long march through the institutions” (Marcuse 2014: 336) is progressively transformative, because establishing epistemically just and mutual recognitive environments necessarily involves combating and reversing the *unofficial* circulation of power in constitutional democracy. *The unofficial circulation of power renders the social environment non-conducive to the development of a healthy practical-relation-to-self.* In a “crisis situation” (Habermas 1996: 380), the flow of power can be reversed to its official state once the public become *actively* aware of its unofficial circulation. This form of consciousness reveals how one no longer deems current frameworks as *rationaly satisfying*, thereby compelling agents to radically revise their sense-making practices for the purpose of achieving at-homeness in the world.

On the subject of Dewey’s role in advancing the development of critical social theory in confronting and overcoming the social pathologies and misdevelopments in Western democracy, a somewhat similar story can be told. As Honneth himself recognizes, “The solution Dewey proposed counts today as everyday pragmatic knowledge and can be understood as a continuation of the already mentioned notion that at the stage of the social, unused potentials for social renewal can only be discovered through a process of communication which is as unrestricted as possible” (Honneth 2017: 96). In this respect, then, Dewey’s commitment to democracy-as-inquiry (and inquiry-as-democracy) plays a very similar diagnostic and therapeutic role as Hegel’s commitment to untrammelled subjectivities and recognitive practices. If one is to adequately explain the complexities of the etiology and epidemiology of democratic crises, then a significant feature of one’s diagnosis involves judging *current epistemic practices as not modeled on the practices of inquiry.* Under such an account, Dewey’s theoretical reconstruction of the understanding of the relationship between the individual and society provides a framework for actualizing the normative surplus of existing social practices: *where there is*

no practice of unrestricted inquiry, there is democratic decomposition; where there is democratic decomposition, there is no practice of unrestricted inquiry. Both are mutually sustaining.

In this chapter, I hope to have shown that my distinctive Deweyan, democratic interpretation of Hegelian *Sittlichkeit* forms the basis of a critical theory in a *broad* sense. Crucially, I also hope to have shown that critical social theorists have to start focusing on the *epistemic* as well as the socioeconomic and cultural levels when diagnosing and overcoming social pathologies and misdevelopments in current social reality.

Notes

1. As Jörg Schaub writes about social pathologies and misdevelopments: "Social pathologies are presented as aberrations related to relationships of individual freedom, whereas social misdevelopments denote aberrations of social freedom. Both forms of aberrations are characterized as socially caused misunderstandings of the *norms that are already underlying existing, reproductively relevant social practices*, which, in turn, lead to a failure to realize the norms underlying them more adequately" (Schaub 2015: 113).
2. Mindedness or our view of ourselves as *persons* and as rationally reflexive agents.
3. And also to make sense of how they ought to act (i.e., to make sense of the content of moral norms and not simply their source and authority).
4. One should note here that the task of the *Groundwork* is *not* to provide the sociohistorical material conditions of moral agency. Rather, all the *Groundwork* focuses on is understanding the formal and rational conditions of moral agency. Under this formal account, it does not follow that there are no sociohistorical conditions for such agency. Still, the *Idea* goes a step further by claiming that such agency is constituted intersubjectively.
5. See Petherbridge (2016) for more on this topic.
6. Cf. Kant (1992: §§57, 563, 740); Kant (2006: 128–129). See also Herman (2009: 161).
7. Cf. "The state in and by itself is the ethical whole, the actualization of freedom; and it is an absolute end of reason that freedom should be actual" (Hegel 1991: §258Z). "The state is the actuality of concrete freedom" (Hegel 1991: §260).
8. Greek ethical life is defined by the tragic conflict between the divine law and the human law: the structure of Greek ethical life is what causes tragedy, because individuality and universality cannot be adequately reconciled in Hellenic culture.
9. Abstract Right (personal freedom) and Morality (moral freedom).
10. See Hegel (1991: §§157–158, 181). In his social philosophy, Hegel uses "immediate unity," "difference," and "mediated unity" as equivalent terms for "universality," "particularity," and "individuality."
11. Cf. "The state is the actuality of the ethical Idea" (Hegel 1991: §257). "The essence of the modern state is that the universal should be linked with the complete freedom of particularity and the well-being of individuals, and hence that the interest of the family and of civil society must become focused on the state" (Hegel 1991: §260Z). "The State is the . . . unification of the family principle with that of civil society. The same unity, which is in the family as a feeling of love, is its essence" (Hegel 1991: §535).
12. See also the following by Robert B. Pippin: "Hegel thinks he can show that one never 'determines oneself' simply as a 'person' or agent, but always as a member of a historical ethical institution, as a family member, or participant

- in civil society, or citizen, and that it is only in terms of such concrete institutions that one can formulate some substantive universal end, something concretely relevant to all other such agents" (Pippin 1997: 73).
13. For more on this subject, see Patten (1999) and Neuhauser (2000).
 14. To put this more simply, where the previous philosophical traditions had fundamentally separated mind and world, and individuality and the social, both Hegel and the classical pragmatists conceive of mind and world as interdependent, and conceive of the individual and society as interdependent.
 15. For more on this subject, see Hardimon (1994).
 16. I wish to note that this is not to say that Right-Hegelian positions are completely *incoherent* but rather that they make a serious error in failing to sufficiently recognize the left-wing entailments of Hegel's discursive resources.
 17. Patten (1999) calls this a "civic humanism."
 18. *Sittlichkeit* reveals how norms are never fixed and infallibilistically constituted, insofar as difference's emergence can motivate what Iris Marion Young (1990) famously dubbed the *politics of difference*.
 19. However, Molly Farneth rightly draws a distinction between the *politics of recognition* and Hegel's account of recognition: "Hegel's idea of recognition is not about the recognition of fixed *identities* but, rather, about the recognition of *subjectivities*" (Farneth 2017: 118). I would contend that there is scope for Farneth to be *more* critical about the politics of recognition and the claim that it is invariably committed to *reified* identities.
 20. "Mentality on our approach simply comes in when the organism is able to point out meanings to others and to himself. This is the point at which mind appears, or if you like, emerges. . . . It is absurd to look at the mind simply from the standpoint of the individual human organism; for, although it has its focus there, it is essentially a social phenomenon; even its biological functions are primarily social" (Mead 2015: 132–133).
 21. Cf. "[T]he self . . . is socially constituted through and through; it is not able, by detaching itself from particular life contexts, to step outside of society altogether and settle down in a space of abstract isolation and freedom" (Habermas 1992: 183).
 22. For more on Dewey's relationship with Hegel, see Good (2005). Importantly, though, one should not lose sight of how, for all of the democratic *potentialities* in Hegel's model of *Sittlichkeit* that bring him closer to Dewey, Dewey is critical of Hegel's commitment to constitutional monarchy: "[T]here can be no doubt that Hegel's discussion of the internal organization of the state is the most artificial and the least satisfactory portion of his political philosophy. He makes the ideal State most highly realized in the constitutional monarchy in whose structure simple monarchy, aristocracy and democracy are simply subordinate phases" (Dewey 1897: §124, 159–160).
 23. Cf. "The idea of democracy is a wider and fuller idea than can be exemplified in the state even at its best" (Dewey 1927: 143).
 24. See, for example, Joas (1993), Kadlec (2006), and the 2017 special issue of the *Journal of Speculative Philosophy* on Dewey and critical theory.
 25. From this way of phrasing the question, I think there is an even more fundamental question, one which is outside the scope of this chapter but which I focus on directly in Giladi (forthcoming): *why should the first generation of the Frankfurt School be seen as defining the terms of the tradition of critical theory when Hegel and American pragmatism have been fundamental influences for Habermas and Honneth?*
 26. For critical discussions of Adorno's contempt for Hegel and his variety of idealism, see Baumann (2011) and Giladi (2017).

27. See also the following passage from *Negative Dialectics*: "Hegel concludes in an ever-recurring mode, the particular is nothing. The modern history of the human spirit – and not that alone – has been an apologetic labour of Sisyphus: thinking away the negative side of the universal" (Adorno 1981: 327)
28. Cf. "What tolerates nothing that is not like itself thwarts the reconciliation for which it mistakes itself. The violence of equality-mongering reproduces the contradiction it eliminates" (Adorno 1981: 142–143).
29. The German term for "concept," *Begriff*, comes from the verb *Begreifen*, which in turn is derived from *Greifen*. "*Greifen*" is often translated as meaning "to grab / to grip / to seize / to snatch / to capture / to strike / to take hold / to bite."
30. See Tugendhat (1986) for a more contemporary version of the charge of conservatism.
31. According to Hans Joas, "[Horkheimer] relies by and large, however, on the pertinent book by Max Scheler [*Erkenntnis und Arbeit: Eine Studie über Wert und Grenzen des pragmatischen Motivs in der Erkenntnis der Welt*], in which pragmatism appears as a philosophy that reduces human life to labor and is therefore not adequate for a portrayal of what is authentically spiritual or personal. In these works Horkheimer therefore continues the tradition of decades of arrogant and superficial German snubbing of the most ingenious stream of American thought. Scheler's interpretation suits Horkheimer's attempt to treat pragmatism throughout as the inconsistent brother of logical positivism" (Joas 1993: 81).
32. See also the introductory chapter of *Dialectic of Enlightenment* as well as Horkheimer and Adorno's commentary on de Sade's *Juliette*. Juliette "favours system and consequence. She is a proficient manipulator of the organ of rational thought" (Horkheimer and Adorno 2002: 94–95); "Juliette believes in science. She wholly despises any form of worship whose rationality cannot be demonstrated. . . . She operates with semantics and logical syntax like the most up-to-date positivism. . . . [She is] a child of the aggressive Enlightenment" (Horkheimer and Adorno 2002: 96)
33. For Foucault (1997: 17), there is an intimate connection between scientific culture and power relations. An important characteristic of modern industrial societies is that they tend to be governed by scientific/mathematical models. What underpins these models is the operation of nomothetic reason, which subsumes particulars under formal, universal laws. For Foucault (1997: 17–18), political systems of control, exclusion, and punishment are bound up with nomothetic practice.
34. However, I grant that despite this expression by Dewey, the optimism and incremental overtones of his writings hardly seem to fit with the pessimism and negativism of Horkheimer and Adorno.
35. See the following passage: "What still lies ahead for consciousness is the experience of what Spirit is – this absolute substance which is the unity of the different independent self-consciousnesses which, in their opposition, enjoy perfect freedom and independence: 'I' that is 'We' and 'We' that is 'I'. It is in self-consciousness, in the Notion of Spirit, that consciousness first finds its turning-point, where it leaves behind it the colourful show of the sensuous here-and-now and the nightlike void of the supersensible beyond, and steps out into the spiritual daylight of the present" (Hegel 1977: 110–111)
36. For further on this, see Jay (1984).
37. Cf. "This reasoning cries out for criticism, especially on the basis of the ideology critique so important to the (first generation of the) Critical Theory tradition. It does not follow from the mere fact that institutions guarantee

- some freedoms and people actively reproduce them, that these people think that the institutions are the best there ever have been; nor, indeed, that the institutions deserve the active support they receive. False consciousness can make us actively support what we would not so support, but instead oppose, if we were free from this false consciousness. The mere fact that a society guarantees some freedom does not suffice to show that it does not generate false consciousness" (Freyenhagen 2015: 141).
38. A similar story can also be told about reactionary dispositions towards feminist movements such as #MeToo and #TimesUp.
 39. Cf. McConkey (2004: 202–203): "Patricia Williams made claims to knowledge arising as a result of her experiences as a black woman and this is both part of the reason why those claims were viewed as controversial and why they were disbelieved. Belonging to underprivileged social groups whose experience sharply differs from those who constitute more powerful groups, she provided a perspective that offered a challenge to the dominant norms in society. But her accusations of racism were quickly dismissed as imaginings or exaggerations. She suffered from an inability of others to appreciate the perspective from which her assertions had sprung and from the stereotypes and prejudices about black women that fed into the credibility assessment others made of her."
 40. "In characterising an episode or state as that of knowing, we are not giving an empirical description of that episode or state; we are placing it in the logical space of reasons, of justifying and being able to justify what one says" (Sellars 1997: §36). For a similar account, see Jones (2002).
 41. See the following similar remark by Miranda Fricker: "[T]here will be few contexts in which a hearer's prejudice is so insanely thoroughgoing that he fails to regard his interlocutor as a subject of knowledge *at all*" (Fricker 2007: 134–135).
 42. "The intrinsic harm of testimonial injustice as epistemic objectification: when a hearer undermines a speaker in her capacity as a giver of knowledge, the speaker is epistemically objectified" (Fricker 2007: 133).

References

- Adorno, T.W. (1981). *Negative Dialectics*, ed. and trans. E.B. Ashton. London: Continuum.
- Baumann, C. (2011). Adorno, Hegel and the Concrete Universal. *Philosophy & Social Criticism* 37(1): 73–94.
- Brandom, R.B. (1994). *Making It Explicit*. Cambridge, MA: Harvard University Press.
- Burge, T. (1993). Content Preservation. *Philosophical Review* 102(4): 457–488.
- Dewey, J. (1897). *Hegel's Philosophy of Spirit: 1897*, University of Chicago, in J.R. Shook and J.A. Good (eds.) (2010). *John Dewey's Philosophy of Spirit, with the 1897 Lecture on Hegel*. New York: Fordham University Press.
- . (1916). *Democracy and Education*, in J.A. Boydston (ed.) (1976). *The Middle Works: 1899–1924*. Volume 9. Carbondale, IL: Southern Illinois University Press.
- . (1920). *Reconstruction in Philosophy*, in J.A. Boydston (ed.) (1976). *The Middle Works: 1899–1924*. Volume 12. Carbondale, IL: Southern Illinois University Press.
- . (1927). *The Public and Its Problems*, in J.A. Boydston (ed.) (1981). *The Later Works: 1925–1953*. Volume 2. Carbondale, IL: Southern Illinois University Press.

- . (1930). Three Independent Factors in Morals, in J. A. Boydston (ed.) (1981). *The Later Works: 1925–1953*. Volume 5. Carbondale, IL: Southern Illinois University Press.
- . (1935). The Future of Liberalism, in J.A. Boydston (ed.) (1981). *The Later Works: 1925–1953*. Volume 11. Carbondale, IL: Southern Illinois University Press.
- Farneth, M. (2017). *Hegel's Social Ethics: Religion, Conflict, and Rituals of Reconciliation*. Princeton: Princeton University Press.
- Foucault, M. (1997). *Essential Works, Volume 1: Ethics, Subjectivity, and Truth*, ed. P. Rabinow. New York: New Press.
- Frega, R. (2017). A Tale of Two Social Philosophies. *The Journal of Speculative Philosophy* 31(2): 260–272.
- Freyenhagen, F. (2015). Honneth on Social Pathologies: A Critique. *Critical Horizons* 16(2): 131–152.
- Fricker, M. (2007). *Epistemic Injustice: Power and the Ethics of Knowing*. Oxford: Oxford University Press.
- Giladi, P. (2017). Idealism and the Metaphysics of Individuality. *Philosophy & Social Criticism* 43(2): 208–229.
- . (forthcoming). The Dragon Seed Project: Between Liberal Reform and Total Revolution, in P. Giladi (ed.) *Hegel and the Frankfurt School*. New York: Routledge.
- Good, J.A. (2006). *A Search for Unity in Diversity: The "Permanent Hegelian Deposit" in the Philosophy of John Dewey*. New York: Lexington Books.
- . (2010). Rereading Dewey's "Permanent Hegelian Deposit," in J.R. Shook and J.A. Good (eds.) *John Dewey's Philosophy of Spirit, with the 1897 Lecture on Hegel*. New York: Fordham University Press, 56–89.
- Gooding-Williams, R. (2006). *Look, a Negro!: Philosophical Essays on Race, Culture and Politics*. New York: Routledge.
- Gramsci, A. (1971). *Selections from the Prison Notebooks*, trans. Q. Hoare and G. Nowell. London: Lawrence and Wishart.
- Grice, P.H. (1975). Logic and Conversation, in P. Cole and J. Morgan (eds.) *Syntax and Semantics 3: Speech Acts*. New York: Academic Press.
- Habermas, J. (1992). *Postmetaphysical Thinking*, trans. W.M. Hohengarten. Cambridge, MA: MIT Press.
- . (1996). *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans W. Rehg. Cambridge, MA: MIT Press.
- Hardimon, M.O. (1994). *Hegel's Social Philosophy: The Project of Reconciliation*. Cambridge: Cambridge University Press.
- Hegel, G.W.F. (1977). *Phenomenology of Spirit*, trans. A.V. Miller. Oxford: Oxford University Press.
- . (1991). *Elements of the Philosophy of Right*, ed. A.W. Wood, trans. H.B. Nisbet. Cambridge: Cambridge University Press.
- Herman, B. (2009). A Habitat for Humanity, in A.O. Rorty and J. Schmidt (eds.) *Kant's Idea for a Universal History with a Cosmopolitan Aim: A Critical Guide*. Cambridge: Cambridge University Press, 150–170.
- Honneth, A. (2014). *Freedom's Right: The Social Foundations of Democratic Life*, trans. J. Ganahal. Cambridge: Polity Press.
- . (2017). *The Idea of Socialism: Towards a Renewal*, trans. J. Ganahal. Cambridge: Polity Press.

- Horkheimer, M. (2004). *Eclipse of Reason*. London: Continuum Press.
- Horkheimer, M. and T.W. Adorno (2002). *Dialectic of Enlightenment: Philosophical Fragments*, ed. G.S. Noerr, trans. E. Jephcott. Stanford, CA: Stanford University Press.
- Houlgate, S. (2007). Hegel and Brandom on Norms, Concepts and Logical Categories, in E. Hammer (ed.) *German Idealism: Contemporary Perspectives*. London: Routledge, 137–152.
- Jay, M. (1984). *Marxism and Totality*. Berkeley, CA: University of California Press.
- Joas, H. (1993). *Pragmatism and Social Theory*. Chicago: University of Chicago Press.
- Jones, K. (2002). The Politics of Credibility, in L.M. Antony and C.E. Witt (eds.) *A Mind of One's Own: Feminist Essays on Reason and Objectivity*. Boulder, CO: Westview Press, 154–176.
- Kadlec, A. (2006). Reconstructing Dewey: The Philosophy of Critical Pragmatism. *Polity* 38(4): 519–542.
- Kant, I. (1992). *Lectures on Logic*, ed. and trans. J.M. Young. Cambridge: Cambridge University Press.
- . (2006). *Anthropology from a Pragmatic Point of View*, ed. and trans. R.B. Loudon. Cambridge: Cambridge University Press.
- . (2009). Idea for a Universal History with a Cosmopolitan Aim, trans. A.W. Wood, in A.O. Rorty and J. Schmidt (eds.) *Kant's Idea for a Universal History with a Cosmopolitan Aim: A Critical Guide*. Cambridge: Cambridge University Press, 9–23.
- Lukács, G. (1975). *The Young Hegel*. London: Merlin Press.
- Marcuse, H. (2014). *Marxism, Revolution and Utopia: Collected Papers of Herbert Marcuse*. Volume 6. New York: Routledge.
- McConkey, J. (2004). Knowledge and Acknowledgment: Epistemic Injustice as a Problem of Recognition. *Politics* 24(3): 198–205.
- Mead, G.H. (2015). *Mind, Self, and Society: The Definitive Edition*, ed. C.W. Morris, with D.R. Huebner and H. Joas. Chicago: University of Chicago Press.
- Medina, J. (2018). Misrecognition and Epistemic Injustice. *Feminist Philosophy Quarterly* 4(4).
- Neuhouser, F. (2000). *Foundations of Hegel's Social Theory: Actualizing Freedom*. Cambridge, MA: Harvard University Press.
- . 2008. Hegel's Social Philosophy, in F.C. Beiser (ed.) *The Cambridge Companion to Hegel and Nineteenth Century Philosophy*. Cambridge: Cambridge University Press, 204–229.
- Patten, A. (1999). *Hegel's Idea of Freedom*. Oxford: Oxford University Press.
- Petherbridge, D. (2016). What's Critical about Vulnerability? Rethinking Interdependence, Recognition, and Power. *Hypatia* 31(3): 589–604.
- Pippin, R.B. (1997). *Idealism as Modernism: Hegelian Variations*. Cambridge: Cambridge University Press.
- Särkelä, A. and J.S. Zamora (2017). John Dewey and Social Criticism: An Introduction. *The Journal of Speculative Philosophy* 31(2): 213–217.
- Schaub, J. (2015). Misdevelopments, Pathologies, and Normative Revolutions: Normative Reconstruction as Method of Critical Theory. *Critical Horizons* 16(2): 107–130.
- Sellars, W. (1997). *Empiricism and the Philosophy of Mind*, ed. R.B. Brandom. Cambridge, MA: Harvard University Press.

- Tugendhat, E. (1986). *Self-Consciousness and Self-Determination*. Cambridge, MA: MIT Press.
- Westphal, M. (1993). Hegel's Theory of the Concept, in L. Stepelevich (ed.) *G. W. F. Hegel: Selected Writings*. Atlantic Highlands, NJ: Humanities Press International, 103–119.
- Williams, P.J. (1991). *The Alchemy of Race and Rights: Diary of a Law Professor*. Cambridge, MA: Harvard University Press.
- Young, I.M. (1990). *Justice and the Politics of Difference*. Princeton: Princeton University Press.
- Zurn, C.F. (2015). *Axel Honneth*. Cambridge: Polity Press.

14 Hegel and the Intercultural Conception of Universal Human Rights

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Recent reflections in political and legal philosophy have challenged traditional understandings of universal human rights. Traditionally, human rights have been assumed to articulate certain pre-political or pre-institutional entitlements that individuals possess simply in virtue of their essential humanity. In the words of James Griffin, a prominent proponent of what can be called a moral-essentialist view: human rights are “extra-legal ethical standards” denoting rights that individuals possess “simply in virtue of being human” (Griffin 2008: 5, 54). By contrast, a significant number of theorists reject appeal to foundational, pre-political moral principles and instead construe human rights in terms of the role they play in international politics and practice. In the words of Charles Beitz, a prominent proponent of what can be called the “political-practical” view: we need “to abandon philosophical preconceptions about the nature of human rights and think of them as *sui generis*, as the norms of an actually existing global practice” (Beitz 2013: 28).

In this chapter, I appeal to the thought of Hegel in order to present an alternate view. I do so with regard to the *intercultural* approach to universal human rights implicit in Hegel’s thought. On the one hand, Hegel is shown to agree with basic assumptions of the political-practical approach. Among other things, he jettisons the essentialism, foundationalism, and pre-institutionalism of traditional accounts, affirming instead a view of human rights rooted in the practices and social interactions of members of the global community. On the other hand, his approach differs on many points from the political-practical view, retaining core elements of the essentialist view even as it also rejects the foundational justifications for that view. This chapter details the elements of an intercultural approach by drawing on the resources of recognition theory central to Hegelian thought. Recognition theory is especially instructive in this context since – consistent with the political-practical approach – it ties the nature and validity of a doctrine of universal human rights to the actual practices and modes of sociation of the world’s persons and peoples, while also – consistent with the essentialist-moral approach – engaging context-transcending norms that can be

invoked in order to subject those modes and practices to systematic evaluation and critique.

The notion that Hegel or Hegelian thought might instructively contribute to the discourse on universal human rights may to be sure elicit some skepticism. Hegel has criticized the idea of human rights as an “empty” abstraction (Hegel 1975b: 132), he rejects the notion that individuals may have liberties outside membership in existing communities, and he links the validity of practical norms to the exigencies of particular communities. It is the argument of this chapter, however, that none of these considerations gainsays Hegel’s value as an important participant in the discourse on human rights. On the contrary, it is claimed that the distinctiveness of his contribution lies in its capacity to fashion an account of universal human rights precisely in the face of these considerations (compare Schmidt 1999). Hegel does reject the abstractions he discerns in the account of rights associated with modern proponents of natural law, not because he rejects the account itself but only because he claims that rights have no meaning or binding quality without institutional embodiment in concrete forms of life. He does claim that human freedom is centrally connected to membership in political communities, yet that membership itself both presupposes and entails a robust account of individual rights. And while Hegel does assert that the validity of norms is tied to the experiences of those communities, the latter’s identity involves processes of self-definition that, consistent with his intersubjective notion of identity formation, not only entails reference to other cultures and communities but occasions practices of mutual adaptation that tendentially serve to forge generally shared norms and values. In this way, Hegel provides for an account of universal human rights whose validity is established, not *ab ovo*, but – consistent with his theory of a *concrete* universal – in the social interactions of the world’s persons and peoples.

The notion that the interaction of the world’s peoples might contribute to a transnational consensus of norms might itself elicit skepticism, especially in light of Hegel’s own account of international relations. That account is based on the interaction of self-sufficient sovereign states and so appears to leave little room for notions either of national identity or shared norms that might be forged in processes of intersubjective exchange. Moreover, those relations are seemingly characterized more by conflict and bellicosity than the mutual understanding or intercultural learning presumably accompanying intersubjective processes. In this chapter, consideration is given to how for Hegel conflict and even bellicosity are compatible with processes of cross-cultural reciprocity. Here it is noted that Hegel in fact does employ the resources of intersubjective exchange and in particular those of reciprocal recognition in understanding the relationship among peoples at the international level. While reciprocal recognition there commonly does take the

narrowly legalistic form directed to acknowledging the claims and assertions of self-contained entities, Hegel also offers a more robust version shaped by processes of intersubjective identity formation (Buchwalter 2011). In his own time, the former was central to Hegel's understanding of international relations. But in a world such as ours, increasingly defined, however ambiguously, by far-reaching modes of interconnectivity, a more robustly intersubjective account of reciprocal recognition can shape that understanding. It is principally this second account that will be invoked as we appeal to Hegel in fashioning elements of an intercultural theory of universal human rights.

My discussion is divided into six parts. Part 1 – Human Rights, Autonomy, and Local Self-Determination – follows Griffin in linking an account of human rights to the principle of individual autonomy, yet follows Hegel to argue that autonomy and the rights it entails acquire proper meaning and validity only when situated in the life-contexts of particular communities and the conditions for their self-determination. Part 2 – Autonomy, Collective Self-Interpretation, and Interculturality – draws on recognition theory to assert that appeal to local self-determination, far from promoting a type of relativistic enclavism, entails a context-transcending dimension that not only underwrites an intercultural account of human experience and identity but contributes to the generation of an account of universal human rights. Part 3 – Dignity, Humanity, and Universality – details ways in which an intercultural theory reformulates core elements of the traditional discourse on human rights. Part 4 – Human Rights, Interculturality, and the Idea of a Transnational Public Sphere – notes ways in which an intercultural approach to human rights depends upon and affirms the resources of a transnational public sphere, one based on elements of the public sphere that Hegel fashions for domestic societies. Part 5 – Contestation, Dynamism, and the Normative Logic of Recognition – draws on the resources of recognition theory to argue that the contestation and dynamism central to an intercultural account of human rights are interpretable not just as phenomena of discord and variability but also as elements in normative accounts of sociality and historical development. Part 6 – Human Rights, Membership, and Global Civil Society – examines Hegel's doctrine of civil society to detail the normatively robust role played by political membership in his account of human rights as well as how such considerations bear on the idea of a global civil society and its value for an intercultural theory of human rights.

1. Human Rights, Autonomy, and Local Self-determination

As a general matter, Hegel appears to affirm elements of a view of human rights akin to proponents of essentialist views. In particular, his position

has significant affinities with that of James Griffin, one of the foremost contemporary proponents of that view. With Griffin, Hegel articulates a view of human rights based on a conception of human agency and the freedom and dignity of the person. If Griffin understands human rights in terms of features of human agency he ascribes to personhood generally (Griffin 2008: 33–37), Hegel does so with regard to the property of free will “inherent in the essence of every man” (Hegel 1985: 75, 1991a: §4). To be sure, neither thinker disputes the notion that rights require institutional embodiment for their concrete efficacy. In both cases, however, such “practicalities,” to use Griffin’s term (Griffin 2008: 37–39), reference broader conditions of normative agency. Hegel famously terms right the “existence of the free will” (Hegel 1991a: §29), and in so doing he makes a point asserted by Griffin as well – appreciation of the conditions for concrete realization goes hand in hand with attention to how those conditions express broader notions of autonomous human agency.

Yet if Hegel shares with Griffin a commitment to a notion of human rights rooted in an account of human agency, his own view of such agency is much more historically nuanced. This is so first because the concept of freedom that informs the *Philosophy of Right* is one that draws on historical developments. At issue is a reconstruction of the concept of subjective freedom that Hegel associates specifically with the emergence of modernity. More important for present purposes, however, is that the “essential” nature of this idea of freedom is that it must itself obtain institutional embodiment. Freedom for Hegel entails a robust commitment to notions of autonomy and self-determination. Such commitment cannot be accommodated if freedom is simply juxtaposed, as with the Kantian account, to the historically conditioned domains of law, politics, and society. So regarded, freedom is bound and delimited by external conditions, a state of affairs vitiating its claims to self-determination. To do justice to the idea of self-determination, freedom must also reference expression in the conditions of its external determination (Hegel 1991a: §§5–7).

This point is also central to Hegel’s specific conception of freedom, understood as selfhood in otherness. Among other things, this means that freedom realizes itself only in expressing itself in what is the opposite of itself. In this context this means that even as a general normative principle freedom must find expression in an existing system of positive law. Hegel claims that right is the existence of freedom. But on a definition of freedom as selfhood in otherness that existence is also a condition for the realization of freedom itself. A developed legal system is indeed the domain in which “freedom attains its supreme right” (Hegel 1991a: §258).

That freedom entails a historically realized account of law also follows from appreciation of the intersubjective dimension of a notion of freedom understood as selfhood in otherness. On an intersubjective account,

persons are fully autonomous only in relations of reciprocal recognition. This means that individual freedom depends on the presence of a system of institutions that facilitate relations of reciprocity (see Honneth 2014). In the *Philosophy of Right*, such institutions take the form of an existing legal system. Proceeding from the intersubjective conception, the idea of autonomous personality requires the existence of a legal-political community juridically committed to principles of mutual respect and reciprocity. On the one hand, autonomous personality depends on a social order that recognizes and supports that autonomy. On the other hand, that order itself depends on individuals who recognize the autonomy of others and the institutional modes facilitating such recognition (Hegel 1971: §432). It is no coincidence that Hegel construes commitment to the principle of autonomous personality as a legal – and not, as with Kant, moral – imperative: it is a commandment of *right* that one “be a person and respect others as persons” (Hegel 1991a: §36). Hegel may proceed from the abstract notion of autonomous personality, but a proper account of personal autonomy itself depends on a developed system of legal relations.

In asserting that freedom requires institutional embodiment, Hegel is not simply offering a theoretical analysis. Were this all, his analysis would be incomplete on its own terms, undermining the idea of freedom itself. For a proper account of historically realized freedom, it is not enough to address things simply from the third-person perspective of an external observer. To do proper justice to such realization, freedom must be affirmed internally as well, from the first- and second-person perspectives of members of the community in question. In Hegel’s language, a state of affairs articulates freedom when the latter is realized not just “in itself” but “for itself” as well – that is, when its practices and institutions may be said not only to embody norms of freedom but when its members cognitively and volitionally endorse those practices and institutions as embodiments of freedom (Hegel 1991a: §3A). Freedom must be realized in an existing system of institutional relations, yet the “power” of freedom itself is manifest in that system’s “being recognized, its validity in consciousness” (Hegel 1971: §484).

In the present context, this means that a norm of right possesses meaning and validity only to the degree that it is assumed and embraced by community members able to perceive it as their own. A norm of conduct obtains its binding status only in being “generally recognized, known, and willed” (Hegel 1991a: §209). This means that it is not enough simply to point to the dependence of rights on their embodiment in a particular cultural tradition. Such dependence must also be one in which the agents addressed by those rights can be said to appropriate and endorse those rights, construing them as meaningful for themselves and their life contexts. As Hegel wrote already in a 1795 letter to Schelling, it is not enough that people may be said to possess rights; they must

“appropriate” them as their own (Hegel 1985: 35). Only through such active appropriation are rights and other norms accepted as authoritative for members of a political community.

Hegel’s position is also reflected in his account of the connection of rights and collective identity. In his view, collective identity is construed through the idea of a *Volksgeist*, a term itself used to characterize the idea of the state in its “comprehensive sense” (Hegel 1975a: 96). As a principle of collective identity, *Volksgeist* has at least two connotations. First, it encompasses the particular assemblage of norms, practices, and beliefs that distinguish political community: “religion, constitution, system of justice, industry, trade, arts and sciences, military world, world of valour” (Hegel 1975a: 101). Second, *Volksgeist* connotes collective identity in the sense of a people’s consciousness of its commonality. In line with Hegel’s concept of *Geist* (the subjective rendering of substantiality), the spirit of a people consists in “indwelling self-consciousness” (Hegel 1971: §552). Such consciousness is one through which members of a community not only appreciate their shared commonality but in so doing forge that very commonality. Hegel equates such collective self-consciousness with the idea of national sovereignty, defined as a community’s “self-consciousness in relation to its own truth and being” (Hegel 1975a: 96). But it is also synonymous with realized freedom itself, understood as a reality that is not only in itself but for itself as well.

Thus Hegel does link the meaning and validity of an account of human rights to a process in which they are appropriated, interpreted, and endorsed by members of a particular legal-political community. His point, however, is not just that the realization of a locally effective and meaningful account of rights depends on their articulation in terms of the existing norms, customs, and practices of a particular community. His more distinctive position is that the process by which rights are interpreted and clarified as meaningful for a particular community is also one in which a community clarifies and defines and even establishes its identity as a community. Drawing on the ontological self-creativity Hegel assigns to spirit’s internal reflexivity and thus the notion that spirit properly establishes its reality only in the subjective rendering of its own substantiality, collective identity on this view is fully constituted in the activity of a community attending to the conditions of its own commonality, above all those pertaining to its norms of right, justice, and sociality.

2. Autonomy, Collective Self-Interpretation, and Interculturality

Hegel anticipates contemporary theorists like James Griffin in advancing a notion of human rights rooted in the principle of individual autonomy. With such theorists he also allows that that principle denotes a feature of human beings generally. At the same time, however, Hegel would not

assert that autonomy is an abstractly essentialist principle contraposed to the concrete circumstances of social life. On the contrary, reference to such circumstances is mandated by the concept of freedom itself. Not only does affirmation of the principle of freedom require its articulation in the externally determined conditions of a given historical reality, but that articulation itself is achieved only as a community appropriates and affirms for itself received principles and norms. Indeed, far from relying on presumed norms and assumptions, Hegel asserts that the identity of the appropriating community is itself properly constituted only in the activity by which it clarifies the norms governing the conditions of its socialization.

None of this, however, is to suggest that rights for Hegel are merely a function of the customs, practices, and modes of self-understanding of a particular community. Nor is Hegel disputing the traditional view that human rights have universal extension or that they articulate norms of dignity that pertain to humanity generally. His position is unique, however, in that he endorses these views not in spite of but because of his attention to the embodied character and dimension of norms of right and justice. Moreover, what follows from this view is not an abstract and ahistorical view of human rights but an intercultural understanding emerging from the social-historical interaction of the world's persons and peoples. This point is central to the claim that elaboration of an account of rights is linked to the self-understanding and self-formation of a particular legal-political community. Although such processes do affirm and empower the specific norms, beliefs, and practices of a particular community, they also have a context-transcending dimension that not only engenders but endorses an account of universal human rights. This point follows from the idea of communal self-understanding itself and the conditions for local self-determination.

It is widely known that Hegel espouses an intersubjective view of individual autonomy and self-identity. Elements of this position include the following: (1) an individual can properly conceive of him or herself *as* a self only with reference to another self, (2) an individual's own self-identity requires recognition of another self, (3) the genuine recognition of another self requires recognition of the other *as* a self, and thus the latter's own understanding of itself as a self, (4) the other's own self-understanding depends as well on acknowledging and recognizing its relation to another self, (5) one individual's self-understanding, dependent as it is on the other's perception of it, requires integrating into its own self-understanding the other's perception of it, creating thereby the enlarged mentality termed by Hegel a "universal self-consciousness" (Hegel 1971: §436), and (6) effective self-identity depends on an engagement on the part of individuals for the autonomy of the other and the conditions of intersubjective sociality facilitating such autonomy.

Hegel argues similarly with regard to cultural-political communities, which – as noted – are articulated via a principle of collective identity – or *Volkgeist* – expressive of the principle of self-consciousness. To acknowledge this feature of political communities is to acknowledge as well that their identity is intertwined with relations to other communities. As with individual identity, here, too, a community is established as such only with reference to other communities. It is in “the relationship of nations to other nations” that a people is able “to perceive itself . . . and to have itself as an object” (*sein Verhältnis zu andern Nationen . . . [und] sein Wesen vor sich zu haben*) (Hegel 1975a: 101). Nor is Hegel suggesting that a nation or people¹ makes such external reference simply in order to enhance an existing and already established conception of identity. He asserts instead that that identity itself is properly constituted only when a people integrates the other’s perspective into its own self-apprehension. In line with the theory of reciprocal recognition that informs his account of interpersonal relations, he claims that one community can acquire an expansive perspective on its own self-perception only if it both considers how it is perceived by the other and incorporates that perception into its own sense of identity. One nation is “completed” (*vervollständigt*) in its recognition of and by the other (Hegel 1991a: §331A, amended). As do persons, peoples also “depend on the perception and will of the other” (Hegel 1991a: §331).

These considerations enable us to clarify Hegel’s concept of rights. As noted, the meaning and validity of rights on a Hegelian account are connected to processes of self-interpretation, self-definition, and self-formation of the part of particular legal-political communities. Yet this is not to say that rights are thereby merely a function of the experiences of particular communities. Rather, rights on this view have a context-transcendent dimension as well. Inasmuch as the self-interpretive process in which rights are clarified is one that references and integrates the perspective of another culture and community, so too is the affiliated understanding of rights. The process by which one culture properly defines the meaning of rights in ways relevant to its own traditions depends on its incorporating into that self-understanding the perspectives of other legal traditions and practices as well.²

Hegel’s point, however, is not just that the intersubjective account leads to an enlarged and context-transcending account of law and justice within a particular community. It also helps forge and validate not only a transnational account of law and justice but a transnational notion of collective identity itself. In the same way that reciprocal recognition contributes to the constitution of a *Volkgeist*, so it helps forge – fitfully and often tragically – a *Weltgeist* as well. The reciprocal process through which the identities of communities are reciprocally transformed and (re)shaped is also a process of mutual adjustment and adaption wherein communities at least tendentially forge agreement on common norms

and values and therewith even a shared sense of self-identity. As in the relation of individual persons, so, too, with communities: the “I” becomes a “We” (Hegel 1977: 110). The dialectical interchange of national self-consciousnesses contributes to a “trend . . . toward uniformity” (Hegel 1988: 761) culminating in the “universal self-consciousness” that Hegel variously terms a “universal identity” or a “universal spirit” (Hegel 1991a: §331, §339A).

These considerations enable us to appreciate Hegel’s distinctive contribution to the discourse on human rights. On the one hand, Hegel gives voice to a transnational account of human rights able to articulate context-transcending norms that can call into question abuses in particular communities. On the other hand, he rejects the view of those for whom rights denote abstract ahistorical principles expressing some essentialist view of human nature juxtaposed to the actual experience of individuals and communities. Instead, his account of human rights has a decidedly intercultural character: rather than expressing some essential features of human right, Hegel presents rights as generated and validated in the intersocial interchange of peoples and persons as they define and redefine their relations with one another in history. It is a view of human rights tied to a normative convergence process animated by the activity of peoples and persons (re)adjusting their legal conceptions and self-conceptions as they forge and maintain relations with one another.

In his essay “Conditions for an Unforced Consensus on Human Rights,” Charles Taylor (1999) proposes a doctrine of human rights understood as the product of an *overlapping consensus* among cultures. Through his own account, Hegel exhibits affinities with Taylor’s position. He does so, however, not by way of a Rawlsian-like reflection on commonalities that might obtain in the face of significant differences among peoples and cultures. Instead, an overlapping consensus, on Hegel’s view, must be understood as the historical product of the real interaction of diversely situated peoples and persons themselves forging agreements on shared norms and values.

To be sure, language of “consensus” should not mislead. Any process of historical exchange on rights will always be a matter as much of confrontation as cooperation, disagreement as agreement. Indeed, one evident feature of human rights is their emergence from the “suffering of real human beings and the political struggles to defend their dignity” (Donnelly 2003: 58). Yet appreciation of the reality of such conflict is not incompatible with an account of human rights focused on recognitive processes of agreement and consensus. On the contrary, conflict often facilitates it. It might be said that any consensus on human rights is itself the response to experiences of misrecognition and other failed processes of human interaction that may accompany and even drive human history. Habermas presents a doctrine of human rights as emerging

“from violent and sometimes even revolutionary struggles for recognition” (Habermas 2012: 73). More will be said about these matters later, but here it is enough to note that war, conflict, strife, and other forms of struggle, tragic though they are, may be viewed as elements in an evolving process in which principles of right are forged in response to historical forms of injustice and to the modes of misrecognition with which such injustice is often associated. One can construe a doctrine of human rights as the product of a historically generated overlapping consensus, yet one presupposing rather than precluding dissensus.

3. Dignity, Humanity, and Universality

Several implications follow from the account of the relationship of human rights and interculturalism advanced so far in this chapter. One bears on the status of the concept of human dignity. Much of the recent discourse on human rights proceeds from the idea of the “inherent dignity” of human beings. Such language is central to many of the core human rights documents of the past 70 years, including the 1948 Universal Declaration of Human Rights itself. And it is central to a Hegelian account of human rights as well. On this account, however, commitment to the principle of human dignity does not flow from an essentialist account of human beings but instead comprises an element in the intercultural theory of human rights. In particular, a Hegelian view is rooted in the modes of reciprocal recognition fueling an intercultural theory. For Hegel, the principle of inherent or intrinsic human dignity is ultimately a principle of self-worth (see Wood 1990: 91), yet such self-worth is not fully comprehensible without the relations of reciprocal recognition required of a genuine conception of self-identity. “Esteem . . . comes from mediation” (Hegel 1983: 204f). Thus Hegel does affirm the idea of inherent dignity common to the conventional discourse on human rights. On his view, however, that idea is derived not from an essentialist view of human nature but in and through the actual modes of recognitive interaction central to an intercultural view of human rights. Nor does a historicized account of human dignity forfeit the normativity associated with the traditional view. On this account, however, normativity is not connoted by a principle postulated *ab ovo* but is linked instead to the envisaged achievement of a realized human rights regime committed to the mutual recognition of all concerned.

A similar point may be made with regard to the concept of humanity. In line with common conceptions, Hegel may be said to advance a concept of universal human rights that pertains to human beings in general. Yet his is not an essentialist notion of humanity, abstractly juxtaposed to the concrete experience of existing peoples and persons. Instead, humanity for Hegel is a notion tied to processes of social interaction. Not only is it the “nature” of human beings to forge relations with one

another but humanity itself is construed as just the commonality forged through such interactions of all affected persons and peoples. “[I]t is the nature of humanity (*Humanität*) to press onward to agreement with others; human nature only really exists in an achieved community of minds (*zustande gebrachten Gemeinsamkeit der Bewußtseine*)” (Hegel 1977: 43). Following Alexandre Kojève (1969: 237; see also Burns 2014: 332f), we might construe this account of humanity in terms of the requirements of a theory of mutual recognition. On the view presented here, the idea of humanity flows as well from actual processes of social interaction of persons and peoples, whose processes of mutual adjustment and adaptation give rise, however fitfully, to a sense of shared humanity based on and committed to common norms and values. Hegel characterizes this process as a “dialectic” in which the interplay of restricted (*beschränkten*) *Volksgeistern* gives rise to an unrestricted (*unbeschränkte*) *Weltgeist*, and this appeal to *Weltgeist* is especially telling. What *Weltgeist* here denotes, however, is not just a set of values and norms shared by members of the world community; consistent with Hegel’s specific understanding of *Geist*, it denotes as well the self-consciousness of community itself, one moreover which subsists precisely in a community’s consciousness of its own commonality. On this view, then, humanity is fully realized precisely in the consciousness of members of the world community of their shared commonality, and indeed their shared humanity. Moreover, inasmuch as that community consists in a consciousness of what they share in common, a self-consciousness of shared humanity is likewise a realized “consciousness” of human rights, one animated by the view that “[a] *human being counts as such because he is a human being*, not because he is a Jew, Catholic, Protestant, German, Italian, etc.” (Hegel 1991a: §209). As human beings come to “regard themselves in grand and universal terms . . . humanity comes to appreciate that human beings as such merit recognition” (Hegel 1983: 169).

Hegel would thus agree with those for whom human rights are rooted in an account of humanity generally and a view of what is “inherent” in being human. At the same time, however, he rejects the ahistorical essentialism of such approaches to human rights. On his view, both the idea of humanity and the concept of human rights entailed by it are generated in the intercultural processes in which the world’s persons and peoples not only forge a shared humanity but do so in the consciousness of that humanity. It is indeed the case that “human nature only really exists in an achieved community of minds” (Hegel 1977: 43).

Yet another way in which Hegel reformulates the traditional notion of universal human rights is with the idea of universality itself. Such universality is articulated *inter alia* by the principle of universal right, the principle that also informs Hegel’s concept of a law of peoples (*Völkerrecht*) (Hegel 1991a: §333). In asserting this principle, Hegel displays affinities to Kant and the account of international law sketched in *Perpetual Peace*

(Kant 1983: 118f). Unlike Kant, however, Hegel does not construe right as a moral postulate or a priori principle contraposed to the life forms and self-conceptions of individual cultures. On the recognitive account, universal right is a principle generated, clarified, and validated in the interactions of peoples themselves. At issue is not an abstract universal, derived, say, from an essential feature of human beings. Instead Hegel attends to the concrete universal – an inner universality (Hegel 1991a: §339) – rooted in and emerging from the real process of the world's persons and peoples actually forging agreements about the norms governing their sociation.

The universality of a Hegelian account of human rights is exemplified by its notion of validity. For Hegel, the validation of social norms is a matter not simply of theoretical insight or analysis. Instead, such norms claim effective validity only when they are acknowledged and endorsed by those to whom they apply. As noted earlier, something is deemed valid for Hegel when established not only in itself but for itself as well. On this view, then, human rights acquire universal validity to the degree that they are so recognized by members of the world community. Here, too, the universality of human rights is linked to the achievement of a community of the world's persons and peoples supportive of the idea of human rights. In this regard as well, the universality of rights is linked to an actual process of world history, understood as indeed “the world's court of judgment” (Hegel 1991a: §340).

None of this is to suggest that a universal account of human rights eschews attention to local and regional differences. To do so would also ignore the “concrete” nature of Hegel's account of the universal and how it might pertain to the idea of global consciousness of right. As with the concept of *Geist* generally, the notion of collective self-consciousness entailed by a concept of *Weltgeist* is instead rooted in the “self-awareness” (*Selbstgefühl*) of its members (Hegel 1991a: §§265Z, 263) and in particular the “universal self-consciousness” (Hegel 1971: §436) expressed in the appreciation on the part of individuals that their personal welfare is necessarily intertwined with that of the whole. Indeed, the whole, the spirit of the world, is itself internally differentiated, rooted, and sustained in its members' consciousness of the identity of identity and difference central to the idea of spirit itself. Such internal differentiation is consistent with a concept of a universal world spirit understood as a “self-apprehending *totality*” (Hegel 1975a: 65, emphasis added).

Hegel's position, though, is not simply that a notion of universality engages differentiation but that it is generated through the latter. Note has already been made of how the dialectic of the finitude of individual *Volkgeistern* gives rise to the unrestricted reality of a *Weltgeist*. Yet for Hegel the reality of the *Weltgeist* is affirmed as “unrestricted” only inasmuch as it is perceived and known “as unrestricted” (*als unbeschränkte*) (Hegel 1991a: §340, emphasis added), and this in turn is possible only from the

perspective of individual *Volkgeistern* and in particular their perception of themselves *as* restricted. This point again makes clear the dependency of the *Weltgeist* on the experience of individual *Volksggeistern*. Inasmuch as members of individual *Volksggeistern* do perceive their culture *as* restricted or bounded, they also evince an appreciation of the historicity or “contingency” (*Zufälligkeit*) of what is otherwise their presumed “independence” (*Selbständigkeit*). In this way, particular *Volksggeistern* also gain an appreciation of their “mutual relations” (*Verhältnisse zueinander*), a state of affairs that in turn gives rise to the consciousness of universality or the “universal spirit” that is the world spirit itself.

In sum, then, Hegel rejects the essentialist discourse on human rights even as he retains core elements of that project. His treatment of the concepts of dignity, humanity, and universality reflects a uniquely intercultural appropriation and reformulation of the traditional discourse. Especially instructive is his account of universality, whose “concrete” rather than “abstract” formulation facilitates appreciation of multiple ways in which the doctrine of universal human rights can be construed as a function and product of the social interactions of persons and peoples across space and time. The next section of this chapter further details the distinctiveness of Hegel’s approach by considering the role played by a transnational public sphere in an intercultural account of human rights.

4. Human Rights, Interculturality, and the Idea of a Transnational Public Sphere

To posit an intercultural notion of human rights is also to acknowledge the importance of mechanisms that facilitate the forms of sociation needed for intercultural exchange. One central such mechanism is a global or transnational public sphere enabling persons and peoples to clarify the conditions of their sociation (see Flynn 2014: 185–193). Hegel has little to say explicitly about a public sphere at this level. He does, however, detail an account of a public sphere at the domestic level. By reconstructing some of the claims he does make about a domestic public sphere, one can discern elements of a Hegelian account of a transnational public sphere and the role it might play in accommodating an intercultural account of human rights.

Let us begin by noting several features of the concept of a public sphere as Hegel formulates it for a domestic polity.

1. The public sphere is the domain in which members of a community attend to the ends of public life beyond just their own private interests. In line with the reflexivity basic to Hegel’s account of *Geist*, it is the domain in which a community attends to the conditions of its own commonality – its “self-consciousness of its freedom and its right” (Hegel 2012: §154).

2. Those shared ends are pursued in processes of deliberative exchange “in which the participants instruct and convince one another” (Hegel 1991a: §309).
3. Such deliberation occurs primarily through modes of public reasoning—“through insight and reasoned argument” (Hegel 1991a: §316).
4. The chief participants in processes of public deliberation are elected members of the legislative assembly. Assembly members on this view do not represent constituents with a binding mandate but instead are expected to interact with fellow representatives to forge ends beneficial to society as a whole.
5. The processes of public reasoning that take place formally in the legislature must engage and accommodate input from the wider public, whose members themselves possess a right of subjective freedom, “the right to recognize nothing that I cannot perceive as rational” (Hegel 1991a: §32R).
6. Although the public sphere does draw on input issuing from outside processes of formal deliberation, the “informal” side of the public sphere is not unstructured. Both to focus public sentiment and to avoid a crude majoritarianism, the wider public domain is organized to ensure input from the various sub-political bodies as well as the various commercial “branches of society” (Hegel 1991a: §311).
7. The point of this differentiation, consistent with Hegel’s broader view of a polity (“an articulated whole whose parts themselves form particular subordinate spheres” [Hegel 1964: 263]), is not just to ensure representation of diverse groups but to allow that the interests forged in processes of deliberative exchange express the will of society as a whole.
8. Such differentiations also ensure, especially in the face of changing social and historical circumstances, that any achieved agreement on norms will always be provisional, subject to renewal or “rejuvenation” (Hegel 2012: §134), with enacted laws ever subject to “new and further determination” (Hegel 1991a: §298).
9. What changes in this process, however, is not simply public judgments about the ends and norms of public life but the very identity of the public, itself shaped and reshaped through changing social norms, practices, and institutions. It is no coincidence that in his constitutional theory, Hegel construes the legislature, together with the accompanying public sphere, not simply as a power subject to the provisions of the constitution (as with the monarchy and the executive branch) but as “itself a part of the constitution” (Hegel 1991a: §298). Constitutionalism for Hegel thus pertains centrally to the activity of a people as it “makes itself” (Hegel 2012: §134), an activity facilitated above all by the public deliberation he associates broadly with the legislative power. He thereby reaffirms the position of his early system, according to which the “divinity” of a people – its self-causative capacity – is intertwined with its status as a “deliberating and reflective people” (Hegel 1979: 144, 176).

10. Central to such self-causality is the state of affairs in which a community's deliberation on the conditions of its sociation, predicated as it is on modes of mutual respect and reciprocal recognition, serves to forge those very conditions. Here public deliberation evinces a performativity illustrative of Hegel's account of the activity (*Tätigkeit*) of spirit, wherein "the product is the same as that which produces itself" (Hegel 1971: §382A).
11. The self-causative agency of a deliberating people is never autarkic but always occurs as an effort to come to terms with the "otherness" of given historical circumstances, those confronting its self-awareness (*Selbstgefühl*) and its sense of autonomy, itself understood as selfhood in otherness.
12. In line with Hegel's conception of ethical life, public deliberation occurs against the backdrop of enabling norms and practices, even as those norms and practices are further shaped through public deliberation itself.

In what follows I shall not relate all these dimensions to the idea of a public sphere at the transnational level, but I do focus on those bearing on the idea of human rights. To begin with, a transnational public sphere can clearly serve as an area in which members of the global community clarify any number of issues associated with the discourse on human rights – their nature, validity, scope, application, enforcement, and so forth. In addition, a transnational public sphere of Hegelian provenance can serve as a site of self-reflection on the part of the human community regarding the conditions of its member's sociation – the site on which a global community, as with the domestic community, forges a "self-consciousness of its freedom and its right." Yet what may be the most distinctively "Hegelian" feature of a transnational public sphere here is its performative reflexivity – that whereby deliberation on the nature and application of human rights is simultaneously constitution of those very rights. Performative reflexivity of this sort is, as noted, also a feature of a domestic public sphere. Yet it assumes a special dimension at the global level, for here the participants in that sphere are now members of the human community generally. Inasmuch, then, as a transnational public sphere, in affirming relations of mutual respect and reciprocal recognition, also establishes relations of rights and duties, it does so now with regard to a doctrine of universal human rights. Whatever else it is, a properly functioning global public sphere is a domain in which members of a global community reciprocally clarify expectations regarding mutual entitlements and obligations. In this way that sphere operationally contributes to actualizing a globally validated doctrine of human rights. As regards this doctrine, a transnational public sphere is one in which means and ends coalesce. It is a sphere providing a framework for members of the

global community to come to an agreement on the *content* of a doctrine of universal human rights. Given its uniquely performative capacities, it also serves to realize elements of that doctrine in the deliberative process itself.

To be sure, questions can be raised about an account of human right tied to *agreements* effectuated in the operations of a public sphere. Clearly there can be forms of consensus that do not affirm core intuitions about human rights norms. Obviously, there can be agreements predicated precisely on denying human rights. Nor would this be denied by Hegel, sensitive as he is to the place of force and power relations in human affairs. Yet such concerns are not directly applicable to a transnational public sphere of Hegelian provenance. What he says about a public sphere generally obtains as well for a transnational public sphere: it is informed by the norms of public reason. Not only does it depend on processes whereby participants present to others justifiable reasons for claims and assertions; that process itself affirms a commitment to norms central to a doctrine of human rights, including respect, mutual forbearance, and reciprocal recognition. In his "Minimalism about Human Rights," Joshua Cohen has linked an account of universal human rights to an idea of global public reason understood as a transnational "terrain of deliberation and argument about appropriate norms" (Cohen 2004: 195–197). In this regard, he articulates elements of a position identifiable with Hegel. On a Hegelian account, however, a concept of global public reason is not simply a terrain for deliberating about norms; it also denotes a process in which human rights norms are normatively validated, and in a way that they are performatively constituted as well. For Hegel, then, a doctrine of universal human rights is one tied to a public sphere directed to facilitating agreement among the world's persons and peoples regarding the conditions of their sociation. Yet those agreements are themselves answerable to normative considerations that can counterfactually call into question any actual agreement, including those contravening human rights norms themselves.

It may now seem that the position here sketched begs the question. To say that global public deliberation must adhere, however counterfactually, to norms of public reasoning would seem to say that it itself depends on certain human rights norms, like freedom of expression and participation. Yet what is proposed here is that rights are clarified, validated, and even generated in the deliberative process itself. Thus it would seem that Hegel's position is beset by a circularity, one in which an intercultural account of human rights presupposes the very rights it is said to establish. In fact, there is a circularity to Hegel's position, but not a vitiating one. Instead, circularity is a constitutive feature of the position itself. Consonant with Hegel's account of embodied reason, an intercultural account is a historically situated approach to human rights

and so operates in a world where rights and rights claims already exist and are recognized. In this respect, the process of public deliberation that informs an intercultural account will inevitably presuppose certain rights claims. At the same time, however, the nature of an account inspired by Hegel is that the meaning, validity, and concrete reality of those rights are still properly established and reestablished only when endorsed and re-endorsed, appropriated and reappropriated, by participants in the deliberative process. In Hegel's terms, what may obtain "in itself" acquires proper legitimacy only when it becomes "for itself" as well. This is the case as well for rights of expression and participation. As the political history of countries attests, public deliberation about the meaning and extent of these rights presupposes those very rights even as that deliberation serves to clarify, expand, and further actualize those rights. So it is not the case that the intercultural account illicitly presupposes what it purports to prove. It might do so if we adhere to the essentialist view according to which human rights are innate, pre-political entitlements that necessarily antedate forms of social interaction. Yet it is just this view that Hegel disputes. On an intercultural account, human rights are both the condition and consequence of the modes of public reasoning infusing that account. Here, too, "[T]he product is the same as that which produces itself" (Hegel 1971: §382A).

A similar point can be made about what, following Richard Rorty (1993), may be called a human rights culture. Such a culture is a crucial component of the account of human rights that draws on Hegelian insights. Although an intercultural account does rely on the mechanisms and procedures that fuel and facilitate a global public sphere, those mechanisms and procedures are not self-executing. Instead, their viability depends on a culture or ethos supportive of a discourse on human rights. As Hegel makes clear, concepts of right and justice must be situated in a broader account of *Sittlichkeit* or ethical life. Indeed, fashioned explicitly as a condition for the realization of right, Hegel's notion of ethical life can be construed explicitly as the articulation of a human rights culture.

At the same time, however, such a culture or ethos is not simply presupposed. As with the rights it supports, it is itself clarified and fortified through the mechanisms of public deliberation. Hegel's view is that the background values and practices of a culture, especially under conditions of modernity, are themselves shaped by institutional norms of right and justice. In addition, the interdependence of juridical norms and cultural values is also a feature of what counts as a specifically Hegelian notion of a human rights culture. Such a culture is connoted by the notion of a reflective ethical life – the "knowing and thinking ethical life" (Hegel 1991a: §255A) detailed in the *Philosophy of Right*. Reflective ethical life denotes a community of shared norms and values comprising the attention of community members to the conditions of their commonality.

Such attention itself depends on norms and procedures enabling collective self-reflection. In this way, a human rights culture for Hegel depends on a deliberative public sphere even as it also underwrites that sphere. We might say that a human rights culture is here, too, both a condition and a consequence of a global public sphere. Moreover, this relationship of condition and consequence is dynamic and ongoing. Consonant with Hegel's conception of dialectics as a "circle of circles" (Hegel 1991b: §15), a global public sphere depends on an enabling human rights culture, which in turn depends on the mechanisms of the public sphere, which in turn revises underlying cultural values, and so on *ad infinitum*.

5. Contestation, Dynamism, and the Normative Logic of Recognition

Appreciation of the dynamism attached to this idea of a global public sphere speaks to the dynamism of an intercultural theory of human rights. An intercultural theory is shaped by the interaction of persons and peoples representing diverse cultures and traditions and espousing diverse values and attitudes. Accordingly, intercultural discourse will commonly be fueled by contestation over the norms governing the conditions of their sociation, including the norms and procedures of that very discourse. In this regard, we might follow Thomas McCarthy, who links the universality of human rights to the "never ending struggle over the universal" (McCarthy 2009:186; see also Flynn 2014: 32). What Hegel himself said about the *Weltgeist* generally might be said as well of an intercultural account of universal human rights: at issue is the "unending struggle with itself" (Hegel 1975a: 127, amended).

Yet to assert that the intercultural discourse on human rights is a matter of ongoing contestation is not to assert as well that it is simply a matter of conflict and strife, or that it proceeds in a merely episodic and directionless manner. Instead, the intercultural view as presented here construes the process on both counts in terms of the idea and possible achievement of the relations of reciprocal recognition implicit in that view. Consider first the issue of contestation. Hegel is well known for his view of the role played by conflict and strife in human affairs. There is no more pronounced assertion of this position than with his account of the place of war in the relations of peoples. Yet war and bellicosity generally are for Hegel not simply attestations of discord and antagonism. Instead, they accommodate acknowledgment of norms of concord and comity as well. Here we leave aside Hegel's claim that war can contribute to the ethical health of nations. For present purposes it is enough to note that war itself affirms principles of reciprocal recognition. This is evident from the role occupied by right in Hegel's account of war. Hegel characterizes war as a phenomenon of "rightlessness" (*Rechtslosigkeit*) (Hegel 2012: §163, amended). This means that even in a state of general

injustice, norms of right and justice are still implicitly present, that the principle of right still retains its validity (Hegel 2012: §163). War is, as Hegel asserts, a “determination” of *Volkerrecht* (Hegel 1991a: §338f; see also Buchwalter 2012). Yet he also maintains that right is itself a “relationship of recognition,” reflecting “the relationship of persons in their comportment with one another” (Hegel 1987: 197). Thus, to say that war is a phenomenon of rightlessness is also to say that it is one of failed recognition. That in turn is to say, as Hegel does, that war is also to be construed in terms of relations of reciprocal recognition (Hegel 2012: §163). This, to be sure, is not to say that war in fact conduces to concord or realized right, even if Hegel might allow this, and even if historically human rights norms have been adopted in response to human tragedy. What it does make clear is that although an intercultural account of human rights not only acknowledges but even depends on ongoing contestation, it is not thereby merely an affair of endless conflict and strife. Rather, just as war and bellicosity engages, however counterfactually, norms of mutual recognition, the same can be said of struggle and contestation generally.

A similar point can be made with respect to the idea of intercultural exchange on human rights as an ongoing phenomenon. That it is such a phenomenon is attributable to various factors. These include changing social and historical circumstances, contestations among differently situated peoples and persons, ongoing efforts to mediate universal norms with local-regional practices and self-understandings, and participation – consistent with Hegel’s view of an internally differentiated polity – of both governmental and nongovernmental human rights actors in a global political order. It is owing to such considerations that any intercultural consensus on human rights will possess a dynamic character, one subject to ongoing review and revision. It is in this regard that James Tully characterizes human rights norms as simple “proposals” (Tully 2014: 149).

Yet to acknowledge that dynamic and open-ended nature of an intercultural discourse on human rights is not to say that it thereby denotes a mere concatenation of events bereft of wider direction. Hegel is sensitive to the way in which history can be irrational, tragic, and even pointless. Still, the dynamism of an intercultural theory is such that it can also be construed as a process of normative development. This point flows from appreciation of the role of recognitive mechanisms in an intercultural account of human rights. Two observations in particular are in order. First, processes of reciprocal recognition are for Hegel species of a general notion of freedom understood as selfhood in otherness. At the level of society as a whole, a community establishes its freedom and autonomous identity in recognizing itself in the conditions of its existence. Owing to any number of social and historical circumstances, however, a community may become increasingly unable to establish that

form of self-recognition. This can trigger dissatisfaction and discontent leading to a desire to forge social relations that may more adequately foster the conditions for self-recognition and self-identity. Ongoing efforts of a community to establish and reestablish relations of recognition illustrate how changing circumstances can also represent “a birth-time and a period of transition to a new era” (Hegel 1977: 6; cf. Nuzzo 2018).

The point may also be asserted by noting the reflexivity inherent in recognitive processes – that associated with the notion that individuals “*recognize themselves as mutually recognizing one another*” (Hegel 1977: 12). Intersubjective relations of recognition are fueled not just by an attention to the other, but also by an attention to the social conditions that facilitate and foster that attention. Yet social individuals cannot attend to the conditions of their sociality without at some level also presupposing that very sociality. There is thus an incompleteness attached to such reflective activities, one that ensures on pain of infinite regress that the activity of societal self-reflection will be an ongoing and even unceasing phenomenon. As Hegel asserts with regard to the self-comprehending efforts of a world spirit: “[T]he completion of an act of comprehension is at the same time its alienation (*Entäußerung*) and transition.” And inasmuch as this transition is effectuated through a later lifeform’s more adequate comprehension of a predecessor’s self-comprehension, it can indeed represent a transition to “a stage higher” (Hegel 1991a: §343; see Buchwalter 2018: 49–52).

In neither of these two cases does Hegel suggest that future outcomes can be predicted on the basis of these developmental assumptions. Philosophy for Hegel is of course restricted to a retrospective reconstruction of existing and already achieved states of affairs. Moreover, his view of both realized freedom and situated normativity is such that any future advances must first be initiated and enacted by members of a respective form of life. Nonetheless, the resources of recognition theory demonstrate that conflicts discernible in an existing society can be regarded, not just as expressions of recurring crises but as deficient forms of recognition that occasion more adequate future solutions. In this way the intercultural theory of human rights is construable as a learning process directed, however unreliably, to modes of social relations characterized by more adequately realized forms of mutual recognition (see Bielefeldt 2008).

The position here sketched has affinities with that of Beitz, who likewise references the open-ended and contested character of an account of human rights. For Hegel, however, the dynamism specific to that account is animated by a commitment to normative considerations wider and more robust than the “modest” ones countenanced by Beitz. Indeed, we might say that Hegel adumbrates an account committed to what Beitz dismisses as a “larger conception of global justice” (Beitz 2009: 133, 212). While Hegel does regard a doctrine of human rights as a function of

the practices by which persons and peoples seek to come to agreement about the conditions of their sociation, those practices are themselves answerable to the principles of mutual recognition fueling the intercultural account. At issue are not just the norms internal to the functioning practice of international politics but those that may question the practices themselves. Certainly, Hegel rejects any abstract account of normativity, asserting that validation of a form of life is ultimately the task of members of a lifeform. On his view, however, attention to concrete considerations is itself a feature of a general account of normativity, for which what might be deemed theoretically valid must also be deemed so by those to whom it pertains. Even as an intercultural approach appeals to norms inhering in existing global practices, it does not regard them as wholly *sui generis* (Beitz 2013: 2).

6. Human Rights, Political Membership, and Global Civil Society

Many of the points addressed in this chapter can be summarized by considering Hegel's view of the relationship of human rights and political membership. As a general matter, Hegel advances a comprehensive account of human rights, one that includes negative liberty rights, positive welfare rights, and – qualifiedly – rights of political participation (see Buchwalter 2013). Tellingly, however, none of these are pre-political or pre-institutional rights that individuals are presumed to possess in virtue of their humanity alone. Instead, all are rights individuals possess through their membership in a particular community. In particular, possession of such rights for Hegel is linked to membership in modern commercial societies, which represent a core component of what he terms civil society (*bürgerliche Gesellschaft*). This is so for at least four reasons: (1) Inasmuch as individuals are compelled to participate in modern society not only for their livelihood but for life itself, they are entitled to rights against that society (Hegel 1991a: §238A). (2) Civil society, empowered by a comprehensive division of labor, entails “a system of all-round interdependence” (Hegel 1991a: §183) supportive of the wide-ranging interconnection of individual and community undergirding the relations of rights and duties required for a general system of rights. (3) Predicated on the meritocratic evaluation of individual performance and achievement, civil society underwrites the principle of formal equality central to the doctrine of universal human rights. Civil society is committed to the principle that a “*human being counts as such because he is a human being*, not because he is a Jew, Catholic, Protestant, German, Italian, etc.” (Hegel 1991a: §209R). (4) In keeping with its standing as the domain of “reflection” (Hegel 1991a: §§181, 263) and thus a domain shaped by polarities like self and other, civil society denotes a realized human rights community wherein members know and appreciate the status both of

themselves and others as rights-bearing individuals. Civil society “gives right an *existence* in which it is *universally recognized, known, and willed*, and which, through the mediation of this quality of being known and willed, it has validity and objective actuality” (Hegel 1991a: §209).

Yet if Hegel posits a special conjunction between human rights and political membership, that latter is not to be conceived simply in terms of the exigencies of a particular community. At issue is not, say, the “common good idea of justice” that informs Rawls’s conjunction of human rights and political membership (Rawls 1999: 71). This is precluded for Hegel because the values and practices of any particular community could well contravene wider principles of justice. This is so, Hegel maintains, for civil society itself. Civil society fashions a system of rights by concretizing the modern principle of subjective freedom. In modern commercial societies, however, subjective freedom is expressed through the principle of a self-seeking individualism, whose actual articulation in modern societies gives rise to a host of social pathologies that undermine the rights asserted by civil society. Central to such pathologies is the systemic poverty occasioned by the boom-bust cycles of modern market systems. Poverty of this sort results in a “rightlessness” (Hegel 2005: §244) experienced by ever larger numbers of individuals, and is manifest in an increasingly impoverished experience of social membership itself.

Accordingly, members of civil society cannot rely on an account of rights wholly indigenous to the “*sui generis*” resources of civil society itself. Appeal must be made as well to context-transcending norms able to identify and question deficient expressions of rights and the deficient forms of membership it entails. To do so, however, is not, in the end, to have recourse to a set of abstract, pre-institutional norms. Instead, Hegel appeals to the idea of membership itself. Properly conceived, membership is constituted in processes of reciprocal recognition. As noted earlier, such recognition is itself rooted in a commitment to the principle of mutual respect and forbearance central to a system of rights (Hegel 1987: 197). In addition, a feature of that relationship is also the reflexivity noted earlier – that individuals recognize themselves as members of a community committed to their mutual recognition (Hegel 1977: 12).

Thus, even as he rejects a pre-institutional conception of human rights in favor of one accentuating conditions of political membership, Hegel does not advance an account of rights based simply on the exigencies of an existing institutional order. Instead, he understands membership itself in terms of general norms of mutual recognition, those that undergird equally the idea of individual rights and political membership itself. While asserting that rights are to be understood in terms of their institutional embodiment, he maintains as well that such embodiment is itself answerable to principles of right able to assess its legitimacy.

Again, in appealing to the general principles of mutual recognition, Hegel does not invoke a normative category abstractly contraposed to

existing social phenomena. That appeal proceeds instead by attending to conditions present in social reality itself. Central here is the complex system of interdependence constitutive of the reality of modern commercial societies, a system that, for Hegel, contains the core elements of a more adequate account of social membership. At the same time, however, that system is fueled by normative assumptions anathema to such an account. As reflected in the theories of then contemporary political economists, a system of social interdependence in market societies is presumably realized through the operations of an “invisible hand”: as self-seeking individuals pursue their own private gain, they unwittingly *also* contribute to the public welfare and the well-being of society as a whole. Hegel famously rejects this analysis, claiming that a system of untrammelled egoism, far from fostering social cohesion, leads instead to the pathologies noted earlier—those encapsulated in the idea of “the loss of ethical life” (Hegel 1991a: §181). On his view the idea of a system of social interdependence can be usefully appropriated only with recourse to a competing framework – one based on the idea of reciprocal recognition central to a concept of freedom understood as selfhood in otherness. Here the individual does not perceive the other as a restriction on his or her well-being but as a condition for it (Hegel 1991a: §7A). Accordingly, a proper system of social interdependence is achieved not “behind the backs” of self-seeking individuals but only as individuals promote both the welfare of others and the conditions of societal well-being generally. This approach is valuable not least because it promotes a more adequate conception of social membership, one based not on instrumental calculation but on mutual respect and recognition. It is valuable as well because it demonstrates how a concept of social membership can best contribute to an account of human rights, one that for Hegel is realized precisely in a system committed to relations of mutual respect and reciprocal forbearance.

Hegel advances a membership conception of human rights by way of an analysis of the *domestic* communities of modern civil society. In the face of current processes of globalization, however, his position can now be extended to thematize what might be called a *global* civil society, one oriented to a transnationally conceived human rights community (see Moland 2012; Stillman 2012). Indeed, a global civil society would replicate the core elements detailed by Hegel in his account of civil society. First, a global civil society is shaped by the same elements invoked by Hegel to account for a human rights community at the level of domestic societies: (1) obligatory membership, (2) the wide-ranging independence required for a systematic account of the relationship of rights and duties, (3) the emergence in principle of uniform notions of formal equality associated with a meritocratic evaluation of performance and achievement, and (4) the growing consciousness on the part of members of the global community that their sociation is to be regulated in

terms of rights norms. Second, a global civil society is also bedeviled by many of the same pathologies that Hegel said shaped the rightlessness of members of domestic societies, a state of affairs that clearly undermines the status of that society as a legitimate human rights community. Third, the phenomenon of systemic rightlessness occasions appreciation of context-transcending norms – those linked to the principle of reciprocal recognition – that both identify existent pathologies and adumbrate elements of a more adequate articulation of a transnational human rights community.

Yet if a global civil society replicates elements of the rights-based account of social membership that Hegel fashions for a domestic civil society, it is also distinguished by the ways in which it variously accommodates and instantiates the idea of an intercultural account of human rights. Here five such ways are noted, all shaped by the recognition theory fueling an intercultural account. First, a global civil society denotes a central way in which an intercultural theory accommodates the idea of humanity common to the idea of universal human rights. Proceeding from the notion that identity is intersubjectively constituted, recognition theory implies a view of humanity understood not as an abstract principle but as a realized social-political order that *a limine* extends to and engages all members of the human community, past and future members included (see Ferrara 2008). Second, the idea of a global civil society, aided by the resources of recognition theory, assists in establishing the content of an account of human rights specific to interculturalism. Not only is that content the product of members of the human community deliberating about the rights norms that govern their sociation; the deliberative process itself, inasmuch as it both presupposes and fosters relations of reciprocity among members, performatively engenders those very norms. Third, a global civil society furnishes the framework for the notions of universality and universal validity central to an intercultural account of universal human rights. Not only is such universality established and reestablished as members of a global community seek agreement about the general conditions of their sociation; its validity derives not from cogent theorizing about the nature of rights but from concurrent processes in which shared norms forged by members of a global community are also embraced and endorsed by those individuals. Fourth, encompassing the vast diversity of groups and individuals comprising the global community, a global civil society is shaped by wide-ranging contestation about the human rights norms governing its members' sociation. Moreover, such contestation is construed, not simply as evidence of discord or dissensus but also as experiences of misrecognition, a state of affairs that not only engages the idea of social relations governed by modes of mutual recognition but also furnishes resources to identify the inadequacy of deficient such modes. Fifth, although a global discourse on human rights, fueled by the involvement of diversely

situated persons and peoples, represents a dynamic and open-ended state of affairs, it is not one that is merely episodic and without direction. Because a recognitive account entails commitment not only to relations of reciprocity but to the reflection on those relations, the ongoing struggles it presumes are normatively construable as components in developmental learning processes directed to more adequate forms of social and political relations among members of the human community.

All these features of a global civil society – broadly construed, to be sure – represent ways in which an intercultural theory of human rights affirms, substantively as well as normatively, core elements of more essentialist approaches to the doctrine of universal human rights even while linking the nature and validity of that doctrine to the social and political practices commonly deemed anathema to those approaches. As with all such efforts at “dialectical” mediation, one can of course question the viability and even the merit of this undertaking. Nonetheless, in light not least of the dichotomies that still appear to beset the ongoing discourse on human rights, an approach of Hegelian provenance is one that arguably still merits consideration.

Notes

1. In this chapter, I follow Hegel’s general proclivity to use the terms “people” and “nation” interchangeably, as both connote the idea of a cultural community and as such are distinguished from the concept of a state, which of course connotes a political community. Yet the distinction for Hegel is not a rigid one. Inasmuch as a people denotes a community characterized by a consciousness of itself as a community, it relies on the institutional structures facilitating cultivation and re-cultivation of a notion of shared identity. This central to Hegel’s view of a people as a state (“Das Volk als Staat” [Hegel 1991a: §331]). Conversely, inasmuch as a state is never simply a system of formal administrative structures but – and here Hegel follows Montesquieu (Hegel 1975b: 128–129) – instead the articulation of the wider traditions, practices, and values of a particular community (“the actuality of the ethical Idea” [Hegel 1991a: §257]), it is also construed as a people or nation. In this sense, the notions of a people or nation connote at once a political culture and a cultured polity.
2. Examples of this logic of immanent transcendence are empirically evident today, when supra-national, multilateral legal connections are more pronounced than in Hegel’s time. Especially noteworthy is the legal practice and judicial self-understanding of certain member states in the European Union, the latter’s current travails notwithstanding. There, not only are rights claims of citizens in one country increasingly advanced through appeal to supranational legal entities, like the European Court of Justice or the European Court of Human Rights; the legal self-understanding and even the public culture of individual states are increasingly reshaped through integration of perspectives resulting from transnational juridical exchange. Examples here include rights of sexual privacy and rights of prisoners regarding life sentence without parole (see Buchanan 2015; Luban 2015). In these cases, transnational legal developments reveal a “dialectical” process, one characterized – to use terms employed by social theorist Saskia Sassen – by an “endogenizing of the

non-national . . . inside the national,” something that in turn has a “denationalizing” effect on the legal-political self-understanding of national communities themselves (Sassen 2008).

References

- Beitz, C.R. (2009). *The Idea of Human Rights*. Oxford: Oxford University Press.
- . (2013). From Theory to Practice. *Constellations* 20(1): 27–37.
- Bielefeldt, H. (2008). Menschenrechte als interkulturelle Lerngeschichte, in H.J. Sandkühler. *Philosophie wozu?*. Frankfurt a.M.: Suhrkamp, 289–301.
- Buchanan, A. (2015). Why *International Legal* Human Rights? in R. Cruft, S.M. Liao and M. Renzo (eds.) *Philosophical Foundations of Human Rights*. Oxford: Oxford University Press, 244–262.
- Buchwalter, A. (2011). Hegel’s Conception of an “International We,” in *Dialectics, Politics, and the Contemporary Value of Hegel’s Practical Philosophy*. London: Routledge, 201–213.
- . (2012). Hegel, Global Justice, and Mutual Recognition, in A. Buchwalter (ed.) *Hegel and Global Justice*. Dordrecht: Springer, 211–232.
- . (2013). Hegel, Human Rights, and Political Membership. *Hegel Bulletin* 34(1): 98–119.
- . (2018). The Metaphysic of Spirit and Hegel’s Philosophy of Politics, in M.J. Thompson (ed.) *Hegel’s Metaphysics and the Philosophy of Politics*. New York: Routledge, 33–55.
- Burns, T. (2014). Hegel and Global Politics: Communitarianism or Cosmopolitanism? *Journal of International Political Theory* 10(3): 325–344.
- Cohen, J. (2004). Minimalism About Human Rights: The Most We Can Hope For? *Journal of Political Philosophy* 12(2), 190–213.
- Donnelly, J. (2003). *Universal Human Rights in Theory and Practice*, 2nd edn. Ithaca, NY: Cornell University Press.
- Ferrara, A. (2008). Exemplarity and Human Rights, in *The Force of the Example: Explorations in the Paradigm of Judgment*. New York: Columbia University Press, 121–146.
- Flynn, J. (2014). *Reframing the Intercultural Dialogue on Human Rights: A Philosophical Approach*. New York: Routledge.
- Griffin, J. (2008). *On Human Rights*. Oxford: Oxford University Press.
- Habermas, J. (2012). The Concept of Human Dignity and the Realistic Utopia of Human Rights, in Claudio Corradetti (ed.) *Philosophical Dimensions of Human Rights*. Dordrecht: Springer, 63–79.
- Hegel, G.W.F. (1964). *Hegel’s Political Writings*, ed. Z.A. Pelczynski, trans. T.M. Knox. Oxford: Clarendon Press.
- . (1971). *Hegel’s Philosophy of Mind. Part 3, Encyclopaedia of Philosophical Sciences*, trans. W. Wallace and A.V. Miller. Oxford: Oxford University Press.
- . (1975a). *Lectures on the Philosophy of World History. Introduction: Reason in History*, trans. H.B. Nisbet. Cambridge: Cambridge University Press.
- . (1975b). *Natural Law*, trans. T.M. Knox. Philadelphia: University of Pennsylvania Press.
- . (1977). *Phenomenology of Spirit*, trans. A.V. Miller. Oxford: Oxford University Press.
- . (1979). *System of Ethical Life and First Philosophy of Spirit*, ed. and trans. H.S. Harris and T.M. Knox. Albany, NY: State University of New York Press.

- . (1983). *Philosophie des Rechts. Die Vorlesung von 1819/20 in einer Nachschrift*, ed. D. Henrich. Frankfurt a.M.: Suhrkamp.
- . (1985). *The Letters*, trans. C. Butler and C. Seiler. Bloomington, IN: Indiana University Press.
- . (1987). *Jenaer Systementwürfe III*, ed. R.-P. Horstmann. Hamburg: Meiner Verlag.
- . (1988). *Vorlesungen über die Philosophie der Weltgeschichte*, ed. G. Lasson. Hamburg: Meiner Verlag.
- . (1991a). *Elements of the Philosophy of Right*, ed. A.W. Wood, trans. H.B. Nisbet. Cambridge: Cambridge University Press.
- . (1991b). *The Encyclopedia Logic. Part 1 of the Encyclopedia of Philosophical Sciences with Zusätze*, trans. T.F. Garaets, W.A. Suchting and H.S. Harris. Indianapolis, IN: Hackett.
- . (2005). *Die Philosophie des Rechts: Vorlesung von 1821/22*, ed. H. Hoppe. Frankfurt a.M.: Suhrkamp.
- . (2012). *Lectures on Natural Right and Political Science: The First Philosophy of Right*, trans. J.M. Stewart and P.C. Hodgson. Oxford: Oxford University Press.
- Honneth, A. (2014). *Freedom's Right: The Social Foundations of Democratic Life*, trans. J. Ganahl. New York: Columbia University Press.
- Kant, I. (1983). *Perpetual Peace and Other Essays*, trans. T. Humphrey. Indianapolis, IN: Hackett.
- Kojève, A. (1969). *Introduction to the Reading of Hegel: Lectures on the Phenomenology of Spirit*, ed. A. Bloom, trans. J. Nichols, Jr. New York: Basic Books.
- Luban, D. (2015). Human Rights, Pragmatism and Human Dignity, in R. Cruft, S.M. Liao and M. Renzo (eds.) *Philosophical Foundations of Human Rights*. Oxford: Oxford University Press, 263–278.
- McCarthy, T. (2009). *Race, Empire, and the Idea of Human Development*. Cambridge: Cambridge University Press.
- Moland, L. (2012). A Hegelian Approach to Global Poverty, in A. Buchwalter (ed.) *Hegel and Global Justice*. Dordrecht: Springer, 131–154.
- Nuzzo, A. (2018). Speculative Logic as Practical Philosophy: Political Life in Times of Crisis, in M.J. Thompson (ed.) *Hegel's Metaphysic and the Philosophy of Politics*. New York: Routledge, 56–76.
- Rawls, J. (1999). *The Law of Peoples*. Cambridge, MA: Harvard University Press.
- Rorty, R. (1993). Human Rights, Rationality, and Sentimentality, in S. Shute and S. Hurley (eds.) *On Human Rights: Oxford Amnesty Lectures*. New York: Basic Books, 111–134.
- Sassen, S. (2008). Neither Global nor National: Novel Assemblages of Territory, Authority, and Rights. *Ethics & Global Politics* 1 (1–2): 61–79.
- Schmidt, T.M. (1999). Grundrechte einer Weltverfassung? Die Verwirklichung der Menschenrechte in der Perspektive der Hegelschen Rechtsphilosophie, in H. Brunkhorst et al. (eds.) *Rechte auf Menschenrechte: Menschenrechte, Demokratie und internationale Politik*. Frankfurt a.M.: Suhrkamp, 293–313.
- Stillman, P.G. (2012). Hegel, Civil Society, and Globalization, in A. Buchwalter (ed.) *Hegel and Global Justice*. Dordrecht: Springer, 111–130.
- Taylor, C. (1999). Conditions of an Unforced Consensus on Human Rights, in O. Savić and B. Krug (eds.) *The Politics of Human Rights*. London: Verso, 101–119.

- Tully, J. (2014). Two Traditions of Human Rights, in M. Lutz-Bachmann and A. Nascimento (eds.) *Human Rights, Human Dignity, and Cosmopolitan Ideals: Essays on Critical Theory and Human Rights*. Burlington, VT: Ashgate Publishing Company, 139–158.
- Wood, A.W. (1990). *Hegel's Ethical Thought*. Cambridge: Cambridge University Press.

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